

BUSINESS RESOURCE PLAYBOOK



La Plata County
Economic Development
ALLIANCE

SWCODA

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WORKFORCE AND UNEMPLOYMENT

INTRO

This Playbook is a collection of resources that have been previously published in various forms to the general and regional business community. We recognize that this situation is fluid and that businesses are getting overwhelmed with data and links to more websites from various organizations who are all trying to assist and disseminate information. With this in mind The La Plata County Economic Recovery Task Force have curated the best resources that are centric to businesses and divided them into a few high level categories to help navigate the existing programs.

The La Plata County Economic Recovery Task Force is made up of all of the economic development organizations, local agencies and representation from all of the public entities in La Plata County.



CARES ACT AND PPP



The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated \$350 billion to help small businesses keep workers employed amid the pandemic and economic downturn. Known as the Paycheck Protection Program (PPP), the initiative provides 100% federally guaranteed loans to small businesses.

Importantly, these loans may be forgiven if borrowers maintain their payrolls during the crisis or restore their payrolls afterward.

The administration has released initial guidelines; they are available at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options>. The U.S. Chamber of Commerce has issued this guide to help small businesses and self-employed individuals check eligibility and prepare to file for a loan.

Small businesses and sole proprietors can begin applying on April 3. Independent contractors and self-employed individuals can apply beginning on April 10.

Here are the questions you may be asking—and what you need to know.

You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating.

While the program is open until June 30, 2020, the government is advising borrowers to **apply as soon as possible** given the loan cap on the program.

What lenders will NOT CONSIDER

- That the borrower sought and was unable to obtain credit elsewhere.
- A personal guarantee is not required for the loan.
- No collateral is required for the loan.



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

1

Am I ELIGIBLE?

You are eligible if you are:

- A small business with fewer than 500 employees
- A small business that otherwise meets the SBA's size standard
- A 501(c)(3) with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A Tribal business concern that meets the SBA size standard
- A 501(c)(19) Veterans Organization that meets the SBA size standard

In addition, some special rules may make you eligible:

- If you are in the accommodation and food services sector (NAICS 72), the 500-employee rule is applied on a per physical location basis
 - If you are operating as a franchise or receive financial assistance from an approved Small Business Investment Company the normal affiliation rules do not apply
- REMEMBER: The 500-employee threshold includes all employees: full-time, part-time, and any other status.

2

What will lenders be LOOKING FOR?

Borrowers will need to complete the Paycheck Protection Loan Application (which is available [HERE](#)) and payroll documentation

Lenders will also ask you for a good faith certification that:

1. The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
2. The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments. For forgiveness, it is restricted to these items.
3. Borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here
4. From Feb. 15, 2020 to Dec. 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here (Note: There is an opportunity to fold emergency loans made between Jan. 31, 2020 and the date this loan program becomes available into a new loan) You can apply for EIDL at the same time to cover OTHER operating costs not covered by PPP.

If you are an independent contractor, sole proprietor, or self-employed individual, lenders will also be looking for certain documents (final requirements will be announced by the government) such as payroll tax filings, Forms 1099-MISC, and income and expenses from the sole proprietorship.

CARES ACT AND PPP

3

How much can I **BORROW?**

Loans can be up to 2.5 x the borrower's average monthly payroll costs, not to exceed \$10 million.

How do I calculate my average monthly **PAYROLL COSTS?**

(Annual costs/12)



$$\begin{array}{|c|} \hline \text{sum of} \\ \text{INCLUDED} \\ \text{payroll costs} \\ \hline \end{array} - \begin{array}{|c|} \hline \text{sum of} \\ \text{EXCLUDED} \\ \text{payroll costs} \\ \hline \end{array} = \begin{array}{|c|} \hline \text{payroll} \\ \text{costs} \\ \hline \end{array}$$

INCLUDED Payroll Cost:

1. For Employers: The sum of payments of any compensation with respect to employees that is a:

- salary, wage, commission, or similar compensation;
- payment of cash tip or equivalent; • payment for vacation, parental, family, medical, or sick leave
- allowance for dismissal or separation
- payment required for the provisions of group health care benefits, including insurance premiums
- payment of any retirement benefit
- payment of state or local tax assessed on the compensation of the employee

2. For Sole Proprietors, Independent Contractors, and Self-Employed Individuals: The sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in one year, as pro-rated for the covered period.



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

EXCLUDED Payroll Cost:

1. Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
2. Payroll taxes, railroad retirement taxes, and income taxes
3. Any compensation of an employee whose principal place of residence is outside of the United States
4. Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116– 5 127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

NON SEASONAL EMPLOYERS:

Maximum loan =

2.5 x Average total monthly payroll costs incurred during the year prior to the loan date

For businesses not operational in 2019:

2.5 x Average total monthly payroll costs incurred for January and February 2020

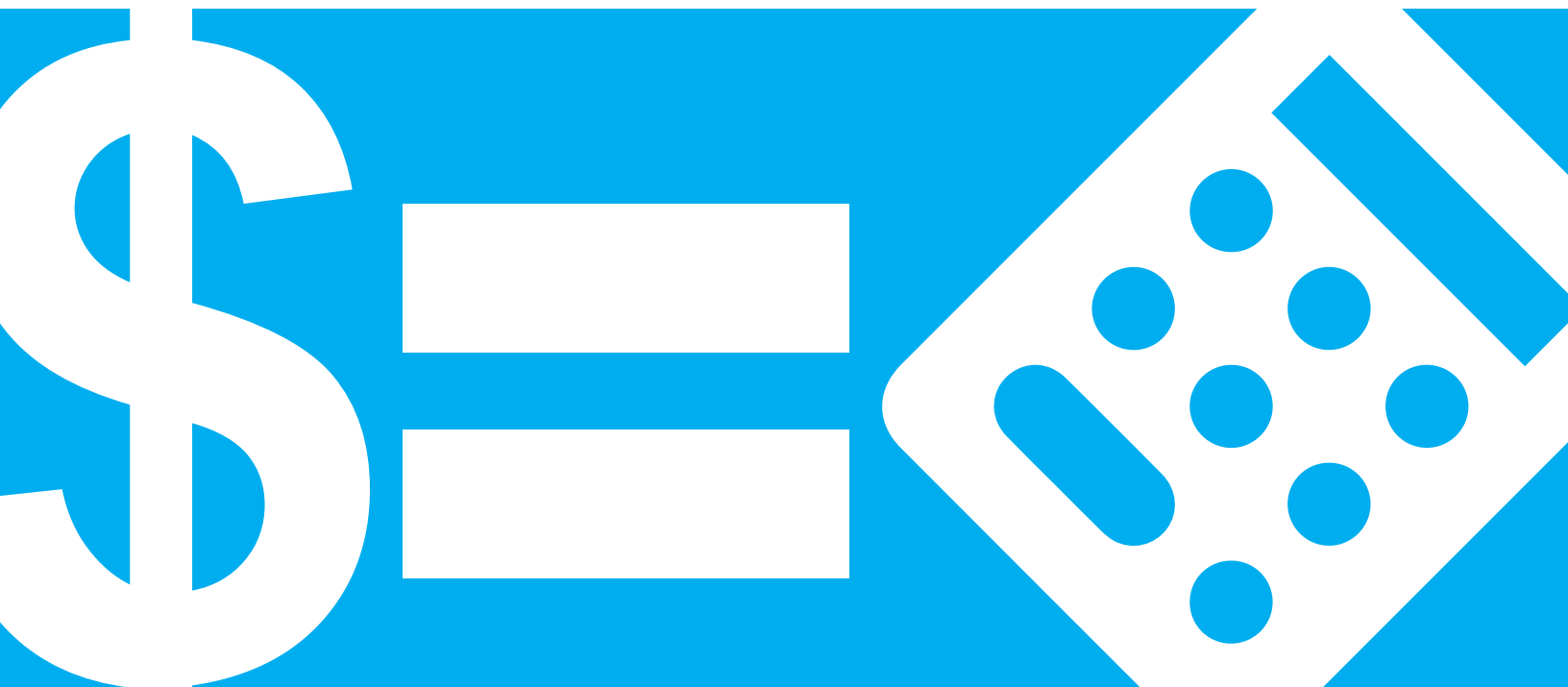
* Also subject to payment deferral and 1% interest

SEASONAL EMPLOYERS:

Maximum loan =

2.5 x Average total monthly payments for payroll costs for the 12-week period beginning February 15, 2019 or March 1, 2019 (decided by the loan recipient) and ending June 30, 2019

- Principal and interest payments deferred for six months
- 1.0% fixed interest rate • Loan is due in two years



CARES ACT AND PPP

4

Will this loan be **FORGIVEN?**

Borrowers are eligible to have their loans forgiven.

How Much?

A borrower is eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan:

- Payroll costs (using the same definition of payroll costs used to determine loan eligibility)
- Interest on the mortgage obligation incurred in the ordinary course of business
- Rent on a leasing agreement
- Payments on utilities (electricity, gas, water, transportation, telephone, or internet)
- For borrowers with tipped employees, additional wages paid to those employees

NOTE: The government is now advising that because of high participation, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs. The loan forgiveness cannot exceed the principal.

How could the forgiveness be reduced?

The amount of loan forgiveness calculated above is reduced if there is a reduction in the number of employees or a reduction of greater than 25% in wages paid to employees. Specifically:

Reduction based on reduction of number of employees



payroll costs
Calculated on page 2



Average Number of Full-Time Equivalent Employees (FTEs) Per Month for the 8-Weeks Beginning on Loan Origination



Option 1:
Average number of FTEs per month from February 15, 2019 to June 30, 2019

Option 2:
Average number of FTEs per month from January 1, 2020 to February 29, 2020

For Seasonal Employers:
Average number of FTEs per month from February 15, 2019 to June 30, 2019



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>



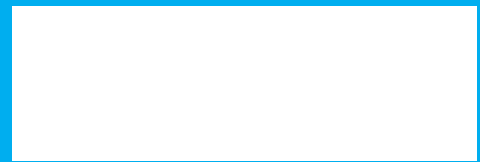
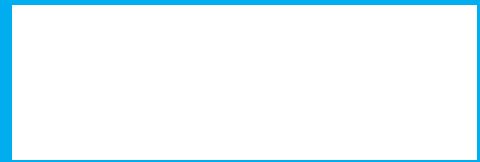
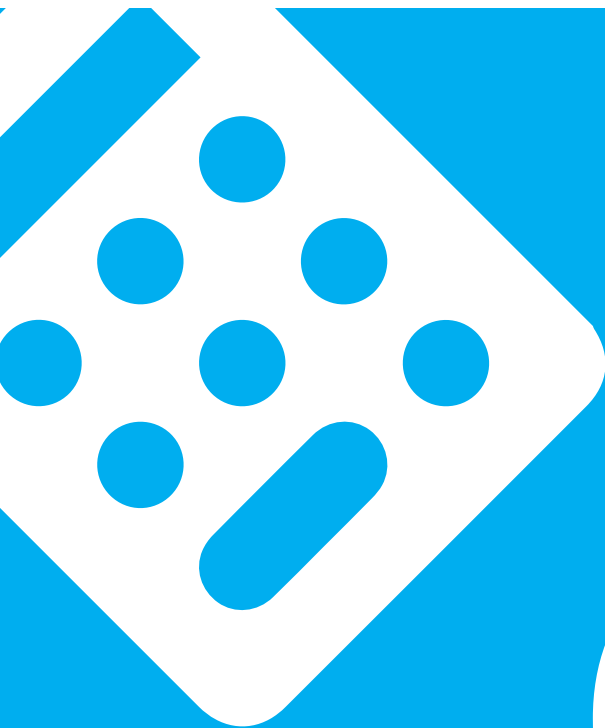
payroll costs

Calculated on page 2

For any employee who did not earn during any pay period in 2019 wages at an annualized rate more than \$100,000, the amount of any reduction in wages that is greater than 25% compared to their most recent full quarter.

What if I bring back employees or restore wages?

Reductions in employment or wages that occur between February 15, 2020 and April 26, 2020 (as compared to February 15, 2020) shall not reduce the amount of loan forgiveness IF by June 30, 2020 the borrower eliminates the reduction in employees or reduction in wages.



CARES ACT AND PPP

The Coronavirus Aid, Relief and Economic Security (CARES) Act allocates \$350 billion to help small businesses keep workers employed amid the pandemic and economic downturn.

Known as the **Paycheck Protection Program**, the initiative provides 100% federally guaranteed loans to small businesses. These loans may be forgiven if borrowers maintain their payrolls during the crisis or restore their payrolls afterward. **IMPORTANT:** Only the principal of the loan will be forgiven. Interest incurred during this 8 week time will still be owed.

Here's an overview of the program and what you need to know.

1

What is the **Paycheck Protection Program?**

The Paycheck Protection Program is a loan from the Small Business Administration (SBA), disbursed by your bank, for the purpose of funding payroll, rent, utilities, or interest on mortgage/debt payments. The loan is eligible to be mostly, if not entirely, forgiven. The program is available until June 30, 2020.

2

Who is **eligible to apply?**

You are eligible if you are:

- A Small business with fewer than 500 employees
- A Small business that otherwise meet the SBA's size standard
- A Non Profit "501(c)(3)" with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A Tribal business concern that meets the SBA size standard
- A Veterans Organization (501(c)(19) that meets the SBA size standard
- Anyone in the accommodation or food service sector (NAICS 72) that has multiple locations, but fewer than 500 employees at each location
- Franchises – affiliation rules have been waived for the time being



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

3

How much can I apply for?

Loans can be up to 2.5 x the borrower's average monthly payroll costs, not to exceed \$10 million.

This will be figured using monthly expenses dating back one year from the date of the loan origination (expected to be April 2019 - April 2020 / May 2019 - May 2020).

Are you a seasonal business?

A different date rate for average expenses will be used.

4

What can the funds be used for?

- Payroll costs
- Costs related to continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- Employee salaries, commissions, or similar compensation
- Payments of interest on any mortgage obligation (does not include prepayment of or payment of principal) • Rent
- Utilities
- Interest on any other debt obligation that was in place prior to February 15, 2020.



CARES ACT AND PPP

5

What can I start working on?

- Contact your lender or bank
- Did you pay payroll taxes for those individuals? Find proof of the payroll tax filings, Form 940/941
- If you are an independent contractor, sole proprietor, or self-employed, you will need to provide:
 - Payroll tax filings
 - Forms 1099-Misc
 - Income and expenses from the sole proprietorship
 - What your funding need is? Include areas of use and estimated amounts.
 - Monthly payroll costs* dating back one year from estimated loan origination (April, May or June)
 - Please figure your average monthly payroll costs: the list of included and excluded costs is below*
 - The time frame required for your individual business is listed below*
 - Estimated Rent Payments
 - Estimated Utility Payments
 - Schedule of Liabilities SBA Form 2202 (debt must have been incurred before February, 15, 2020)
 - SBA Form 1919
 - SBA Form 1920
 - SBA Form 912 – Statement of Personal History



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

6

What will lenders be looking for?

The lender will ask you for a good faith certification that:

- The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
- The borrower will use loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments (remembering only allowed to use on interest portion of debt)
- Borrower does not have an application pending for a loan duplicative of the purpose and amount applied for here. You can apply for EIDL at the same time, but can't use the proceeds to pay same expenses.
- From 2/15/20 – 12/31/20 the borrower has not received a loan duplicative of the purpose and amount applied for here (NOTE: There will be an exception to allow Emergency Loan funds to be included in this loan, if issued between 1/31/20 and the time the Paycheck loans were made available)

7

How can I get my Paycheck Protection Loan forgiven?

A borrower is eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan.

- Payroll Costs*
- Interest on their mortgage obligation
- Rent on a leasing agreement
- Payments on covered utilities* (gas, electricity, water, transportation, telephone, or internet)
- For borrowers with tipped employees, additional wages paid to those employees

CARES ACT AND PPP

Loan forgiveness cannot exceed principal amount of the loan.

How might my forgiveness amount be reduced? or be held liable?

- If there is a reduction in the number of employees
- If there is a reduction of greater than 25% in wages paid to employees
- If your average # of Full Time Equivalent Employees in 2019 is higher than your average # of FTE Employees in 2020 – your forgiveness will be reduced by the percentage difference.
- The maximum any individual employee can be paid is \$100,000 annual salary at a prorated amount for the covered period
- IMPORTANT: if you received any EIDL Advance grant money, your forgiveness of PPP will automatically be reduced by the amount of the EIDL grant.

What if I bring back my employees or restore wages?

Reductions in employees or wages that occur during the period beginning 2/15/2020 and ending 30 days after enactment (3/27/2020) shall not reduce the amount of loan forgiveness IF by 6/30/2020, the borrower eliminates the reduction in employees or reduction in wages.

8

What are the **terms for this loan?**

Any loan balance not forgiven will be termed out for 2 years at no more than 1% A.P.R.

Other terms:

- No (credit elsewhere) test required
- No personal guarantee required
- No collateral required



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

Definitions

Payroll Costs: use this definition to find payroll costs included in finding your loan maximum

Sum of payments of any compensation with respect to employees, including:

- Salary, wage, commission, or similar compensation
- Payment of cash tips or equivalent
- Payment for vacation, parental, family, medical or sick leave
- Allowance for dismissal or separation
- Payment of any retirement benefit
- Payment of state or local tax assessed on compensation of employees

Sum of payments of any compensation or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation

- Cannot exceed more than \$100,000 in 1 year – prorated for the covered period

Payroll costs DO NOT INCLUDE:

- Compensation of individual in excess of annual salary of \$100M, prorated for covered period
- Taxes imposed or withheld under chapter 21, 22, or 24 of IRS code
- Any compensation to individuals who live outside of the US
- Qualified sick and family leave wages for which a credit is allowed under the Families First Coronavirus

Average Monthly Payroll Calculation

Annual Example

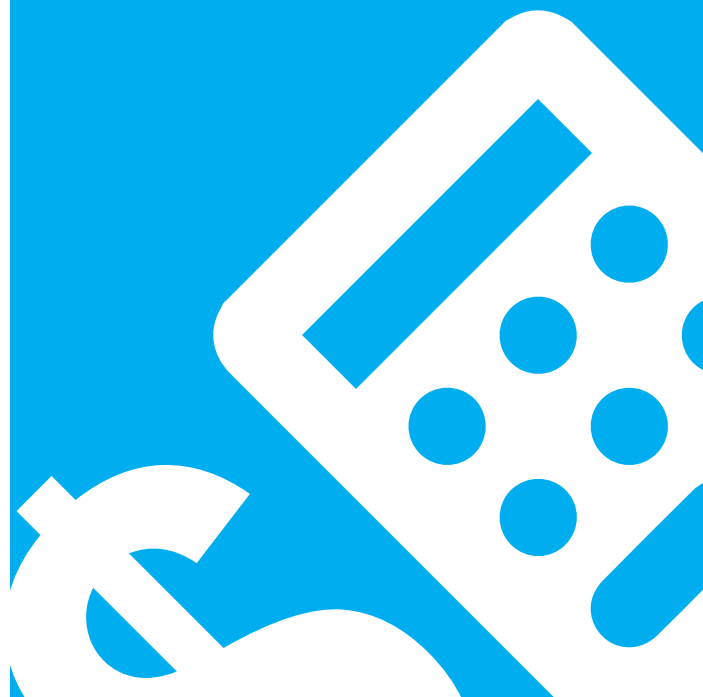
Dental Insurance.....	\$5,000
Health Insurance.....	\$50,000
Payroll taxes.....	\$100,000
Retirement Match.....	\$25,000
Wages.....	\$750,000

Total Wages & Benefits
\$930,000

12 month average wages
\$77,500

12 month average x 2.5
\$193,750

Federal payroll taxes are NOT included.
 Only State and Local. (Including employer)



CARES ACT AND PPP

How can I figure out my estimated loan amount for my business?

Non-Seasonal Employers:

2.5 X Average Monthly Payroll costs incurred during the year prior to the loan date

- Example: if a loan date is estimated to be April, track monthly payroll costs starting April 2019

Seasonal Employers:

2.5 X Average total monthly payments for payroll costs for the 12 week period beginning 2/15/19 or 3/1/19 (decided by the applicant) and ending 6/30/19

For businesses not operational in 2019:

2.5 X Average total monthly payroll costs incurred for January and February 2020

Employee:

full time or part time employees

Covered mortgage obligation:

any indebtedness or debt instrument incurred in the ordinary course of business that is a liability of the borrower, is a mortgage on real or personal property, was incurred before 2-15-20

Covered period of forgiveness:

8 week period beginning date of origination of a covered loan

Covered rent obligation:

rent obligated under leasing agreement in force before 2-15-20

Covered utility payment:

payment for electricity, gas, water, transportation, telephone, or internet access for which service began before 2-15-20

Expected forgiveness amount:

amount of principal a lender reasonably expects a borrower to expend during the covered 8 week period on the sum of any payroll costs; payments of interest on any covered mortgage obligation, payments on covered rent obligation, covered utility payments.

less the amount of any EIDL Advance Grant awarded



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>



CARES ACT AND PPP

The programs and initiatives in the Coronavirus Aid, Relief, and Economic Security (CARES) Act that was just passed by Congress are intended to assist business owners with whatever needs they have right now. When implemented, there will be many new resources available for small businesses, as well as certain non-profits & other employers. This guide provides information about the major programs and initiatives that will soon be available from the Small Business Administration (SBA) to address these needs, as well as some additional tax provisions that are outside the scope of SBA.

To keep up to date on when these programs become available, please stay in contact with your local Small Business Administration (SBA) District Office, which you can locate [here](#).

Struggling to get started? The following questions might help point you in the right direction. Do you need:

- **Capital to cover the cost of retaining employees?** Then the Paycheck Protection Program might be right for you.
- **A quick infusion of a smaller amount of cash to cover you right now?** You might want to look into an Economic Injury Disaster Loan Advance Grant.
- **To ease your fears about keeping up with payments on your current or potential SBA loan?** The Small Business Debt Relief Program could help.
- **Get some quality, free counseling to help you navigate this uncertain economic time.** The resource partners might be your best bet. <https://sbdcfortlewis.org>

Already know what resources you're looking for? The table of contents can direct you to more information about the program or assistance product you need.

Paycheck Protection Program (PPP) Loans

The program would provide cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during this emergency. If employers maintain their payroll, the principal of the loan would be forgiven, which would help workers remain employed, as well as help affected small businesses and our economy snap-back quicker after the crisis. PPP has a host of attractive features, such as forgiveness of up to 8 weeks of payroll based on employee retention and salary levels, no SBA fees, and at least six months of deferral with maximum deferrals of up to a year. Small businesses and other eligible entities will be able to apply if they were harmed by COVID-19 between February 15, 2020 and June 30, 2020. This program would be retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto payrolls. Loans are available through June 30, 2020.



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

What types of businesses and entities are eligible for a PPP loan?

- Businesses and entities must have been in operation on February 15, 2020.
- Small business concerns, as well as any business concern, a 501(c)(3) nonprofit organization, a 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) that has fewer than 500 employees, or the applicable size standard in number of employees for the North American Industry Classification System (NAICS) industry as provided by SBA, if higher.
- Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.
- Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a NAICS code beginning with 72, for which the affiliation rules are waived.
- Affiliation rules are also waived for any business concern operating as a franchise that is assigned a franchise identifier code by the Administration, and company that receives funding through a Small Business Investment Company.

What are affiliation rules?

Affiliation rules become important when SBA is deciding whether a business's affiliations preclude them from being considered "small." Generally, affiliation exists when one business controls or has the power to control another or when a third party (or parties) controls or has the power to control both businesses. Please see [this resource](#) for more on these rules and how they can impact your business's eligibility.

What types of non-profits are eligible?

In general, 501(c)(3) and 501(c)(19) non-profits with 500 employees or fewer as most non-profit SBA size standards are based on revenue, not employee number. You can check [here](#).

CARES ACT AND PPP

How is the loan size determined?

Depending on your business's situation, the loan size will be calculated in different ways (see below). The maximum loan size is always \$10 million.

- If you were in business February 15, 2019 – June 30, 2019: Your max loan is equal to 250 percent of your average monthly payroll costs during that time period. If your business employs seasonal workers, you can opt to choose March 1, 2019 as your time period start date.
- If you were not in business between February 15, 2019 – June 30, 2019: Your max loan is equal to 250 percent of your average monthly payroll costs between January 1, 2020 and February 29, 2020.
- If you took out an Economic Injury Disaster Loan (EIDL) between February 15, 2020 and June 30, 2020 and you want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the payroll sum.

What costs are eligible for payroll?

- Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent)
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of State or local tax assessed on the compensation of employees

What costs are not eligible for payroll?

- Employee/owner compensation over \$100,000
- Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

- Compensation of employees whose principal place of residence is outside of the U.S.
- Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act

What are allowable uses of loan proceeds?

- Payroll costs (as noted above)
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- Employee salaries, commissions, or similar compensations (see exclusions above)
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- Rent (including rent under a lease agreement)
- Utilities
- Interest on any other debt obligations that were incurred before the covered period



CARES ACT AND PPP

What are the loan term, interest rate, and fees?

For any amounts not forgiven, the maximum term is 2 years, the maximum interest rate is 1 percent, zero loan fees, zero prepayment fee (SBA will establish application fees caps for lenders that charge).

How is the forgiveness amount calculated?

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8 week period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over \$100,000):

- Payroll costs plus any payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation plus and any covered utility payment. Payroll must be comprise 75% of use of proceeds and forgiveness amount will be reduced by the amount of any EIDL Advance Grant also received.

How do I get forgiveness on my PPP loan?

You must apply through your lender for forgiveness on your loan. In this application, you must include:

- Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings.
- Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.
- Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use.

What happens after the forgiveness period?

Any loan amounts not forgiven are carried forward as an ongoing loan with max terms of 2 years, at a maximum interest rate of 1%. Principal and interest will continue to be deferred, for a total of 6 months to a year after disbursement of the loan. The clock does not start again.



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

Can I get more than one PPP loan?

No, an entity is limited to one PPP loan. Each loan will be registered under a Taxpayer Identification Number at SBA to prevent multiple loans to the same entity.

How does the PPP loan coordinate with SBA's existing loans?

Borrowers may apply for PPP loans and other SBA financial assistance, including Economic Injury Disaster Loans (EIDLs), 7(a) loans, 504 loans, and microloans, and also receive investment capital from Small Business Investment Corporations (SBICs). However, you cannot use your PPP loan for the same purpose as your other SBA loan(s). For example, if you use your PPP to cover payroll for the 8-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

How does the PPP loan work with the temporary Emergency Economic Injury Grants and the Small Business Debt Relief program?

Emergency Economic Injury Grant and Economic Injury Disaster Loan (EIDL) recipients and those who receive loan payment relief through the **Small Business Debt Relief Program** may apply for and take out a PPP loan as long as there is no duplication in the uses of funds. Refer to those sections for more information.

PAYCHECK PROTECTION PROGRAM BORROWER APPLICATION FORM

<https://www.sba.gov/document/sba-form--paycheck-protection-program-borrower-application-form>

CLICK HERE

CARES ACT AND PPP

Paycheck Protection Program (PPP)

Economic Injury Disaster Loan (EIDL)

Payroll Expenses
Employee Salaries
Mortgage Interest
Rent and Utilities
Interest on debt
incurred before
2.15.20

Payroll
Fixed Debts
Accounts Payable
Other expenses that
can't be paid because
of the disaster's impact



business & average
2.5X monthly payroll
up to \$ 10 million

up to
\$2 million



fixed **1%**
Annual Percentage Rate

3.75%
Annual percentage Rate



no payments for first
6 months
then a 2 year term loan

up to
30 years



up to **100%**
of principal
with approval

up to
\$10,000
Emergency Grant
eligible for forgiveness



*You can apply for the EIDL \$10,000 grant and loan, and still be eligible to apply for PPP. However, you may not use EIDL funds for the same purpose you will use PPL funds. Your forgiveness amount will change if funds uses are duplicated. PPP forgiveness will be automatically reduced by the amount of EIDL Advance Grant funds received.



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>



SBA EMERGENCY LOANS

This program will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a), 504, and microloans. Under it, SBA will cover all loan payments on these SBA loans, including principal, interest, and fees, for six months. This relief will also be available to new borrowers who take out loans within six months of the President signing the bill into law.

Which SBA loans are eligible for debt relief under this program?

7(a) loans not made under the Paycheck Protection Program (PPP), 504 loans, and microloans. Disaster loans are not eligible ([see p. 7 for more information on these](#)).

How does debt relief under this program work with a PPP loan?

Borrowers may separately apply for and take out a PPP loan, but debt relief under this program will not apply to a PPP loan.

How do I know if I'm eligible for a 7(a), 504, or microloan?

In general, businesses must meet size standards, be based in the U.S., be able to repay, and have a sound business purpose. To check whether your business is considered small, you will need your business's 6-digit North American Industry Classification System (NAICS) code and 3-year average annual revenue. Each program has different requirements, see <https://www.sba.gov/funding-programs/loans> for more details.

What is a 7(a) loan and how do I apply?

7(a) loans are an affordable loan product of up to \$5 million for borrowers who lack credit elsewhere and need access to versatile financing, providing short-term or long-term working capital and to purchase an existing business, refinance current business debt, or purchase furniture, fixtures and supplies. In the program, banks share a portion of the risk of the loan with SBA. There are many different types of 7(a) loans, you can visit [this site](#) to find the one that's best for you. You apply for a 7(a) loan with a bank or a mission-based lender. SBA has a free referral service tool called [Lender Match](#) to help find a lender near you.



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>

<https://choosecolorado.com/wp-content/uploads/2020/03/CARES-ACT-1.pdf>

What is a 504 loan and how do I apply?

The 504 Loan Program provides loans of up to \$5.5 million to approved small businesses with long-term, fixed-rate financing used to acquire fixed assets for expansion or modernization. It is a good option if you need to purchase real estate, buildings, and machinery. You apply through a Certified Development Company, which is a nonprofit corporation that promotes economic development. SBA has a free referral service tool called [Lender Match](#) to help find a lender near you.

What is a microloan and how do I apply?

The Microloan Program provides loans up to \$50,000 to help small businesses and certain not-for-profit child-care centers to start up and expand. The average microloan is about \$13,000. These loans are delivered through mission-based lenders who are also able to provide business counseling. SBA has a free referral service tool called [Lender Match](#) to help find a microlender near you.

I am unfamiliar with SBA loans, can anyone help me apply?

Yes, SBA resource partners are available to help guide you through the loan application process. You can find your nearest Small Business Development Center (SBDC) or Women's Business Center [here](#).



SBA EMERGENCY LOANS

Economic Injury Disaster Loans & Emergency Economic Injury Grants

These grants provide an emergency advance of up to \$10,000 to small businesses and private non-profits harmed by COVID-19 within three days of applying for an SBA Economic Injury Disaster Loan (EIDL). To access the advance, you first apply for an EIDL and then request the advance. **The advance does not need to be repaid under any circumstance**, and may be used to keep employees on payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations, including debts, rent and mortgage payments.

Are businesses and private non-profits in my state eligible for an EIDL related to COVID- 19?

Yes, those suffering substantial economic injury in all 50 states, DC, and the territories may apply for an EIDL.

What is an EIDL and what is it used for?

EIDLs are lower interest loans of up to \$2 million, with principal and interest deferment at the Administrator's discretion, that are available to pay for expenses that could have been met had the disaster not occurred, including payroll and other operating expenses.

Who is eligible for an EIDL?

Those eligible are the following with 500 or fewer employees:

- Sole proprietorships, with or without employees
- Independent contractors
- Cooperatives and employee owned businesses
- Tribal small businesses

Small business concerns and small agricultural cooperatives that meet the applicable size standard for SBA are also eligible, as well as most private non-profits of any size. See [below](#) for more info on size standards.



helpful links

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>

<https://choosecolorado.com/wp-content/uploads/2020/03/CARES-ACT-1.pdf>

My private non-profit is not a 501(c)(3). Is it still eligible for an EIDL and a grant?

Yes, if you are a private non-profit with an effective ruling letter from the IRS, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or if you can provide satisfactory evidence from the State that the non-revenue producing organization or entity is a non-profit one organized or doing business under State law. However, a recipient that is principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting, or primarily engaged in political or lobbying activities is not eligible to receive an EIDL. If you are uncertain whether you qualify, please consult with legal counsel to determine whether your organization meets program criteria.

Who is eligible for an Emergency Economic Injury Grant?

Those eligible for an EIDL and who have been in operation since January 31, 2020, when the public health crisis was announced.

How long are Emergency Economic Injury Grants available?

January 31, 2020 – December 31, 2020. The grants are backdated to January 31, 2020 to allow those who have already applied for EIDLs to be eligible to also receive a grant.

If I get an EIDL and/or an Emergency Economic Injury Grant, can I get a PPP loan?

Whether you've already received an EIDL unrelated to COVID-19 or you receive a COVID-19 related EIDL and/or Emergency Grant between January 31, 2020 and June 30, 2020, you may also apply for a PPP loan. If you ultimately receive a PPP loan or refinance an EIDL into a PPP loan, any advance amount received under the Emergency Economic Injury Grant Program would be subtracted from the amount forgiven in the PPP. However, you cannot use your EIDL for the same purpose as your PPP loan. For example, if you use your EIDL to cover payroll for certain workers in April, you cannot use PPP for payroll for those same workers in April, although you could use it for payroll in March or for different workers in April.

SBA EMERGENCY LOANS

How do I know if my business is a small business?

Please visit <https://www.sba.gov/size-standards/> to find out if your business meets SBA's small business size standards. You will need the 6-digit North American Industry Classification Code for your business and your business's 3-year average annual revenue.

How do I apply for an economic injury disaster loan?

To apply for an EIDL online, please visit <https://disasterloan.sba.gov/ela/>. Your SBA District Office is an important resource when applying for SBA assistance.

I am unfamiliar with the EIDL process, can anyone help me apply?

Yes, SBA resource partners are available to help guide you through the EIDL application process. You can find the nearest Small Business Development Center (SBDC), Women's Business Center, or SCORE mentorship chapter at <https://www.sba.gov/local-assistance/find/>.



REGIONAL LOANS AND GRANTS

Region9 Disaster Assistance Loan Program

Serving Archuleta, Dolores, La Plata, Montezuma, San Juan, Southern Ute and Ute Mountain Ute Tribes

Loans Up to \$10K*

(All loans are subject to approval and available funding) https://www.scan.org/uploads/COVID_loan_flyer.pdf

Low cost loans from \$1K-10K

To help cover

Essential Business Expenses

such as:

Payroll, rent, & utilities

3 month draw period

0% interest if paid in less than

6 months

1% interest for 6-12 months

Converts to Prime interest rate
after 1 year and amortizes on a
24-48 months term

Flexible Collateral

Streamlined Applications
due April 9th

Email

Jenny@scan.org

Brian@scan.org

The Region 9 Disaster Assistance Loan Program is designed to help those that are currently in business and who have a plan to continue their business operations after the COVID-19 crisis.

As part of the application process we would like to request a Job Development Statement, a Personal Financial Statement, 2019 Year end Profit & Loss Statement and Balance Sheet (or tax return if completed) and a written narrative describing how the funds will help support your business during the coming months.

Below is a list of guiding questions for the narrative that, at a minimum, may also assist you in your business planning. Please address as many of the questions that are applicable to your business.

Primary Focus Questions

How long have you been in business?

How many employees did you have prior to the COVID-19 event?

What is the current status of your employees?

How will the loan funds be spent?

How are your operations currently impacted by the current crisis?

Other Considerations:

How much cash or other capital does your business have?

How is your supply chain effecting your business?

How do you message your clients?

Is your business dependent on locals or tourism? Both?

What other challenges are you facing in the business?

Have you spoken to your Bank about your business recently?

Which Bank do you work with?



helpful links

https://www.scan.org/uploads/COVID_loan_flyer.pdf

<https://www.fswcf.org/covid-19>

COVID-19 EMERGENCY LOAN FUND

The COVID-19 Emergency Loan Fund has been established to offer low-interest loans to rural businesses and nonprofits affected by the COVID-19 crisis. The loans are designed to support businesses and nonprofits during this difficult period, with the goal to enable them to continue operations and support their employees.

LOANS CAN BE USED FOR:

Working capital;

Business continuity.

LOANS CANNOT BE USED FOR REFINANCING DEBT.

APPLY HERE

<https://www.fswcf.org/covid-19>

ELIGIBLE TO APPLY

Any business, nonprofit, or startup in the following counties may apply:

Alamosa, Archuleta, Conejos, Costilla, Dolores, La Plata, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan, and San Miguel.

At least 1 year of operation.

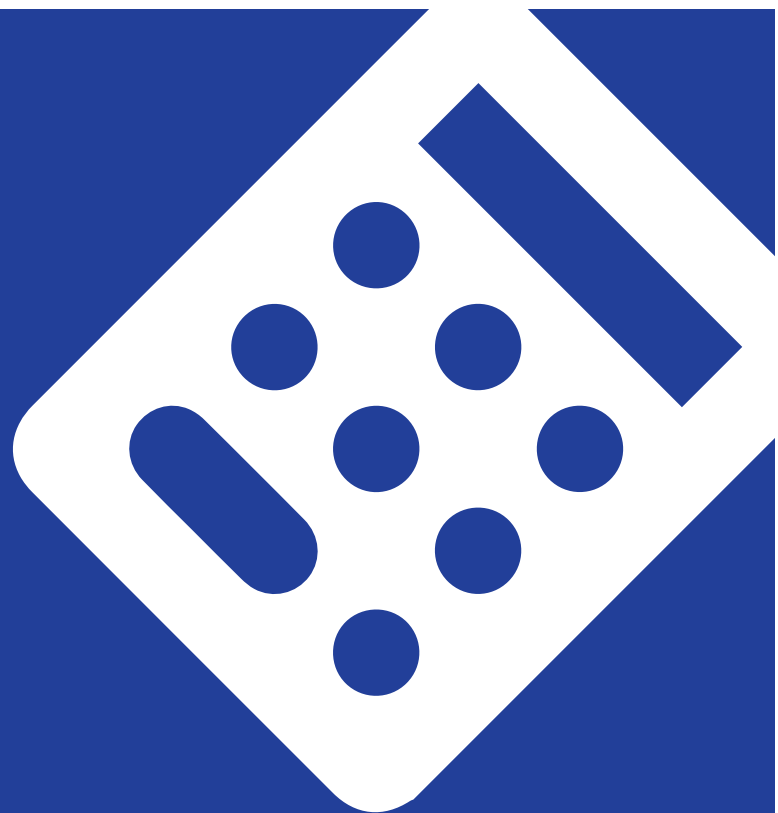
LOAN TERMS

Loan amount: \$5,000-\$10,000;

2.5% interest rate with 7 year term;

\$100 loan fee;

No payments for first 180 days.



FINANCIAL DATA NEEDED - 7(a) SBA LOAN AND FORGIVENESS UNDER THE CARES ACT
Checklist of Documentation Required

rev 3/28/20

The SBA loans under Section 1102 of the CARES Act (sometimes referred to as "7(a) Loans") which are eligible for forgiveness are available to employers with less than 500 employees. Such loans will be handled through the client's lender (bank) and guaranteed 100% by the SBA. These are non-recourse loans.

Banks will need the following financial information in order to process the SBA loan application:

This information will be needed to present to the bank to apply for the loan:

1)	Copies of payroll tax reports file with the IRS (including Forms 941, 940, state income and unemployment tax filing reports) for the entire year of 2019 and first quarter of 2020 (if available) should be presented.	
2)	Copies of payroll reports for each pay period for the preceding 12 months. Such reports should include gross wages including PTO (which might include vacation, sick, and other PTO). This includes payroll reports through the pay period preceding the origination of the SBA loan.	
3)	Documentation reflecting the health insurance premiums paid by the company under a group health plan including owners of the company for the immediately preceding 12 months prior to the date of the SBA loan origination. Copies of the monthly invoices should suffice.	
4)	Documentation of all retirement plan funding by the employer for the immediately preceding 12 months. Copies of workpapers, schedules and remittances to the retirement plan administrator should be sufficient.	

This information will be needed to present to the bank or SBA for Loan Forgiveness:

1)	Copies of payroll tax reports file with the IRS (including Forms 941, 940, state income and unemployment tax filing reports) for the the 8 week period following the original of the loan.	
2)	Copies of payroll reports for each pay period for the 8 week period following the origination of the loan. Gross wages including PTO (which might include vacation, sick, and other PTO) should be reflected.	
3)	Documentation reflecting the health insurance premiums paid by the company under a group health plan including owners of the company for the 8 week period following the origination of the loan should be provided. Copies of the monthly invoices should suffice.	
4)	Documentation of all retirement plan funding by the employer for the 8 weeks following the origination of loan should be sufficient. Copies of workpapers, schedules and remittances to the retirement plan administrator should be available.	
5)	Copies of all lease agreements for real estate and tangible personal property should be presented along with proof of payment during the 8 week period following the loan origination date.	
6)	Copies of all statement of interest paid on debt obligations incurred prior to February 15, 2020 indicating payment amounts and proof of payment for the 8 week period following the loan origination date.	
7)	Copies of cancelled checks, statements or other evidence of utilities paid during the "covered period" for the 8 week period following the loan origination date.	

IMPORTANT NOTES:

Each lender may require more or less information. In addition, each borrower will need to make a certification that the documentation is true and correct, the amount for which forgiveness is being requested was used to make payments to retain employees and to make interest payments on covered mortgage obligations, covered rent obligations and covered utility payments. In addition, the SBA may request further information. There will be NO forgiveness of the documentation is not presented. The SBA will render a decision within 60 days after receipt of an application for forgiveness. The amount of any loan forgiveness under this program is NOT taxable income.

WORKFORCE AND UNEMPLOYMENT



EMERGENCY PAID SICK LEAVE

Under The

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

EFFECTIVE:
APRIL 1, 2020 -
DECEMBER 31, 2020

WHO IT APPLIES TO:
EMPLOYEES WITH 500
OR LESS EMPLOYEES

WHAT IT PROVIDES:

10

Days (80 HOURS)
OF FULL PAY

For any employee unable to work or telework due to any of the following:



Subject to government quarantine or isolation order.



Advised by a health care provider to self-quarantine.



Experiencing symptoms of COVID-19 and seeking medical diagnosis.

10

Days (80 HOURS)
OF FULL PAY

For any employee unable to work or telework due to any of the following:



Caring for a person subject to a quarantine order or advised to self-quarantine.

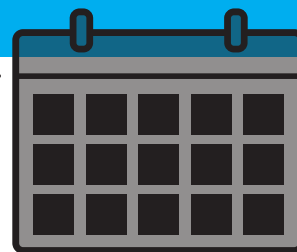


Caring for children whose schools/care providers have closed due to COVID-19 precautions.



Absent due to substantially similar conditions (as declared by the US secretary of health and Human Services)

LEAVE IS PAID AT:
THE EMPLOYEE'S
REGULAR RATE
OF PAY

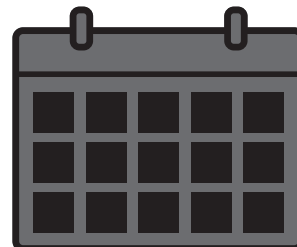


CAP:

\$511/day

\$5,110 Aggregate

LEAVE IS PAID AT:
2/3 OF THE EMPLOYEE'S
OF PAY RATE



CAP:

\$200/day

\$2000 Aggregate

EMPLOYERS CANNOT RETALIATE
AGAINST THEIR EMPLOYEES FOR
TAKING/REQUESTING THESE LEAVES.

WORKFORCE AND UNEMPLOYMENT

Introduction

Since early this year, we have been on the ground, supporting employers as COVID-19 continues to cause understandable confusion, anxiety, and multiple challenges. Tens of thousands of employers have turned to us for answers about new legal obligations, workplace health, employee management, and business operations.

Because we understand the biggest challenges facing employers, we created this list of Frequently Asked Questions (FAQs) to help employers get trusted answers. As we continue to field new questions, we will promptly update this resource.

The FFCRA and Other Applicable Leaves

What is the new federal COVID-19 law, and what does it do?

Effective April 1, 2020, the Families First Coronavirus Response Act (FFCRA) is a federal law that will require employers to facilitate two major benefits. Under the new law, employees must be given:

1. Up to two weeks of emergency paid sick leave (EPSL) for illness, quarantine, or school closures related to COVID-19.
2. Up to 12 weeks of emergency Family and Medical Leave Act (EFMLA) leave for care of their children during school closures related to COVID-19, most of which must be paid. A few exceptions apply.

[Do we need to provide the required sick leave under the FFCRA in addition to the sick leave we already offer?](#)

Yes. The Department of Labor makes it clear in an FAQ regarding the FFCRA that leaves under the FFCRA are intended to be in addition to any pre-existing leave entitlements that an employee may have.

[What are our EPSL and EFMLA obligations to different employee situations, such as remote employees?](#)

All employees are entitled to emergency paid sick leave (EPSL) and emergency expansion of the FMLA (EFMLA) benefits unless a specific exemption applies to your business or the individual.

[Is the FFCRA retroactive or applicable before its effective date?](#)

No. The Families First Coronavirus Response Act (FFCRA) goes into effect on April 1, 2020 and is not applicable before that time.

[Does the FFCRA apply to me if I have more than 500 employees? How do I count them?](#)

The FFCRA does not apply to your organization if you employ more than 500 employees. You have fewer than 500 employees if, at the time your employee's leave is to be taken, you employ fewer than 500 full-time and part-time employees within the United States. In making this determination, you should include employees on leave, temporary employees who are jointly employed by you and another employer (regardless of whether the jointly-employed employees are maintained on only your or another employer's payroll), and day laborers supplied by a temporary agency (regardless of whether you are the temporary agency or the client firm if there is a continuing employment relationship). Workers who are independent contractors under the Fair Labor Standards Act (FLSA), rather than employees, are not considered employees for purposes of the 500-employee threshold.



helpful links

<https://www.thinkhr.com/covid19/>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

How do EFMLA and EPSL relate to each other, especially in regard to caring for children?

The emergency FMLA (EFMLA) and emergency paid sick leave (EPSL) both cover caring for children whose school or place of care is closed due to COVID-19 precautions, though EFMLA has the broader restriction that the child be under 18 years old. The leaves can run concurrently with the first 10 days of EFMLA being unpaid, which will, in many cases, coincide with the 80 hours of pay (at 2/3 the regular rate) under EPSL for full-time employees.

How does the FFCRA define emergency workers or healthcare providers?

The FFCRA defines healthcare workers as anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity.

This includes any individual employed by an entity that contracts with any of the above to provide services or to maintain the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.

An emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19.

This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual that the highest official of a state (or the District of Columbia) determines is an emergency responder necessary for the response to COVID-19.

To minimize the spread of the virus associated with COVID-19, the Department of Labor encourages employers to be judicious when using this definition to exempt emergency responders from the provisions of the FFCR

How does the FFCRA apply to state law obligations, like unemployment or state-mandated paid sick leave?

Employers need to comply with both the Families First Coronavirus Response Act (FFCRA) as well as with their state sick leave obligations. The act does not specifically prohibit employers from combining the sick leave under emergency paid sick leave (EPSL) with their existing policies.

Do we still have to provide EPSL or EFMLA if we lay off or furlough employees?

No. Employers who are closed — either due to lack of business or a state or local order — do not have to provide these leaves. Employees who are furloughed (temporarily not working but still on the payroll) are also not entitled to these benefits. In either of these cases, employees would be eligible for unemployment insurance instead. However, employers should ensure that they are not making furlough or layoff decisions based on an employee's request or potential need for leave, as this would likely be considered interference or retaliation (and grounds for a lawsuit).

WORKFORCE AND UNEMPLOYMENT

[How are we supposed to pay for the sick leave and FMLA leave mandated by the Families First Coronavirus Response Act?](#)

To take immediate advantage of the paid leave credits, businesses can retain and access funds that they would otherwise pay to the IRS in payroll taxes. If those amounts are not sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS by submitting a streamlined claim form that will be released soon.

We know that for many of our clients, business slowdowns related to the spread of COVID-19 have made it hard to imagine how they could bear any additional expenses. We encourage anyone with these concerns to read the linked announcement carefully.

The full announcement can be found here: [Treasury, IRS, and Labor Announcement on FFCRA Implementation](#). Including the information in the link, this is all we currently know about the payroll tax credit under the FFCRA and how to access or administer it.

[If I am a nonprofit or a public employer, do tax credits and reimbursement apply to me?](#)

Most public employers (e.g., cities, municipalities, public school districts) will not be eligible for the tax credits or reimbursements provided in the act. Private nonprofit entities, however, are eligible.

Health & Safety

[Can we tell employees who travel to stay home and quarantine, even if they don't have symptoms?](#)

Our recommendation is to follow guidance from the CDC — see Tables 1 and 2 in the CDC's [Interim US Guidance for a Risk Assessment](#) guide.

[We are an essential business where there's a shelter-in place-rule and an employee is refusing to work as they say it's not safe. Can we discipline them?](#)

This is certainly a difficult situation to be in. We recommend extreme caution in disciplining or terminating an employee who refuses to work in a location that has shelter-in-place rules in effect, as it poses several types of legal risk. Generally, employees do not have a right to refuse to work based only on a generalized fear of becoming ill if their fear is not based on objective evidence of possible exposure. In that case, you would be able to enforce your usual attendance policies. However, under the current circumstances, where COVID-19 cases are increasing and many cities and states are implementing drastic public health measures to control spread of the virus, we think it would be difficult to show that employees have no reason to fear coming in to work, particularly in a location with a shelter-in-place rule.

Are You an Essential Business?

Guidance has been released as to who and what qualifies as an essential worker or essential business. See this [document](#) to see if your business and workers may qualify. While this document is specific to California, if you are in another state that has not yet released guidance on who or what is essential, this may be a good reference and may be similar to what your state releases in the near future.



helpful links

<https://www.thinkhr.com/covid19/>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

Provide Reasonable Accommodation

Employees who are in a high risk category — either because they are immunocompromised or have an underlying condition that makes them more susceptible to the disease — should be granted a reasonable accommodation under the Americans with Disabilities Act (ADA) and/or state law. Employees who live with someone who is at high risk should be granted a similar accommodation. It would be a reasonable accommodation under the circumstances to allow the employee to work from home or take a non-working leave, if working from home is not possible.

Under OSHA rules, an employee's refusal to perform a task will be protected if all of the following conditions are met:

- Where possible, the employee asked the employer to eliminate the danger, and the employer failed to do so;
- The employee refused to work in "good faith." This means that the employee must genuinely believe that an imminent danger exists;
- A reasonable person would agree that there is a real danger of death or serious injury; and
- There is not enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.

No Punishment or Retaliation for Raising Safety Concerns

An employer cannot retaliate against an employee for raising a safety concern. Additionally, employees who won't work because of safety concerns may be considered to be engaging in protected concerted activity under the National Labor Relations Act (NLRA) if they have a "good faith" belief that their health and safety are at risk.

Incentivize Employees Instead

Instead of disciplining employees who express fear at this time, we recommend you consider methods to encourage employees to come to work and to help put their minds at ease. Consider emphasizing all of the safety methods you have put in place (e.g., scheduled hand-washing, frequent disinfection of surfaces, social distancing rules, reduced customer capacity, staggered shifts, or more extreme measures if warranted by your industry). We recommend relying heavily on the Centers for Disease Control and Prevention (CDC) guidelines and local health department information in establishing safe working conditions at this time. You might also consider offering premium pay or additional paid time off (PTO) for use in the future to employees who must come to work.

[Is it safe for our employees to keep working? How do we decide whether to keep employees working or not?](#)

Ultimately each company will need to determine how it will fulfill its duty to provide a safe workplace to its employees. It's very important to pay attention to federal, state, and local authorities to see if they are rolling out specific guidance or prohibitions that you need to be aware of. For example, some locations have issued an order for individuals to "shelter in place," which drastically limits what workplaces can remain open and provides some guidance for those who can remain working.

Guidance has been changing from day to day and region to region. We recommend keeping up with the latest information on the Centers for Disease Control (CDC) Coronavirus home page, related pages on that site, and your local health department for the most up to date guidance for your region and operations.

WORKFORCE AND UNEMPLOYMENT

Can we send employees home if they are symptomatic?

Yes. The Centers for Disease Control and Prevention (CDC) has advised employers that employees who appear to have symptoms of COVID-19 (e.g., cough, shortness of breath) should be separated from other employees and sent home immediately. If the employee feels well enough to work, consider whether they can effectively telecommute.

Note: Nonexempt employees may be entitled to a few extra hours of pay if you're in a state with reporting time pay, but this cost will be well worth it to maintain the safety of the workplace.

Can I send an employee home if they are sick or pregnant, regardless of whether it's COVID-19-related, just to be safe?

You have the right to send people home for sickness if it appears that they have something contagious; in this case, you are protecting other employees in the workplace. This includes sending employees home who have the common cold.

You should not send employees home because you believe they are higher risk — this includes pregnant employees. We would encourage you to make working from home or unpaid leaves available for employees who want that option, but not to force that on anyone who doesn't pose a risk to others.

What if my employee discloses that their family member or roommate has COVID-19?

Individuals who share a household with someone who is infected should self-quarantine for 14 days per the Centers for Disease Control and Prevention (CDC). Employers should ask employees who live with someone confirmed to have COVID-19 to notify a designated HR representative or their supervisor as soon as possible. The employer and employee should then refer to CDC guidance to assess risk and determine next steps — see Tables 1 and 2 in the CDC's Interim US Guidance for Risk Assessment and Public Health Management. A call to the local health authority may also be warranted. Remember that the confidentiality of medical information must be maintained per the Americans with Disabilities Act.

What should we do if a potentially exposed employee came into the office? Do we inform affected employees and/or send everyone home?

You should refer to the CDC's Risk Assessment tool and/or contact your local health authority to help you determine what steps, if any, would be warranted to protect other employees. Remember that medical information (even of an employee's family member) must be kept confidential under the Americans with Disabilities Act.

Given COVID-19, if an employee is out of the office due to sickness, can we ask them about their symptoms?

Yes, but there's a right way to do it and a wrong way to do it. In most circumstances, employers shouldn't ask about an employee's symptoms, as that could be construed as a disability-related inquiry. Under the circumstances, however — and in line with an employer's responsibility to provide a safe workplace — we recommend asking specifically about the symptoms of COVID-19 and making it clear that this is the extent of the information you're looking for.

Here's a suggested communication: "Thank you for staying home while sick. In the interest of keeping all employees as safe as possible, we'd like to know if you are having any of the symptoms of COVID-19. Are you experiencing a fever, cough, and/or shortness of breath?"



helpful links

<https://www.thinkhr.com/covid19/>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

Remember that medical information must be kept confidential as required by the Americans with Disabilities Act (ADA). If the employee does reveal that they have symptoms of COVID-19, or has a confirmed case, you should see the CDC's Interim Guidance to determine next steps. Tables 1 and 2 will help you assess risk and determine what steps, if any, should be taken.

What should we do if an employee says their symptoms are not related to COVID-19?

This is a tough situation. The Equal Employment Opportunity Commission (EEOC) and the Centers for Disease Control and Prevention (CDC) advise employers to send employees home when they have COVID-19 symptoms (fever, cough, shortness of breath). Employees should not return until they are symptom free for at least 24 hours without symptom-altering medication (e.g., Tylenol, cough suppressants). The CDC is asking employers not to request a doctor's note because of the current strain on our healthcare system due to the pandemic.

If an employee claims that their symptoms are attributed to another cause (e.g., allergies, asthma), the most risk-adverse response would be to send employees home when they have COVID-19 symptoms, with pay. We understand that providing paid leave for all employees is not feasible for every business, but paid leave will incentivize employees to be honest and help you keep your workplace safe.

The CDC has a risk assessment tool available here, which might be helpful. We would also note that, based on news reports, some people have tested positive for COVID-19 without any known exposure.

How do we handle taking employee's temperatures?

The Equal Employment Opportunity Commission (EEOC) has issued guidance that employers may take employees' temperatures during the COVID-19 pandemic because COVID-19 is spreading nationwide. Note that many people may have COVID-19 without a fever, so other safety precautions should not be scaled back just because employees "checked out" upon arrival to work. The CDC summarizes symptoms here.

The main CDC COVID-19 page has general community mitigation strategies as well as certain regional specific strategies. We cannot provide guidance on how to implement temperature checking procedures, but significant precautions should be taken so that you do not actually increase risk by reusing a tool that comes into contact with hands, faces, and/or mouths of multiple employees.

“The CDC is asking employers not to request a doctor's note because of the current strain on our healthcare system due to the pandemic.”

WORKFORCE AND UNEMPLOYMENT

Do we have to pay an employee we sent home due to COVID-19?

Employees must be paid for any work they do at home. If you send someone home and they cannot work remotely, then whether you pay them, and how much, will depend on their classification.

Nonexempt employees only need to be paid only for actual hours worked

For nonexempt employees, in situations where leave under the Families First Coronavirus Response Act (FFCRA) does **not** apply, the company may:

1. Pay the employee for the time, even though they did not work;
2. Require they take the day off unpaid;
3. Require they use any available vacation time or PTO; or
4. Allow employees to choose between taking an unpaid day or using vacation or PTO

All four options are compliant with state and federal law. We generally recommend the option 4 — allowing employees the option of using vacation time or PTO, but not requiring it.

Exempt employees must be paid their regular salary unless they do no work for an entire week

This holds true whether they are sent home for full or partial days. You may, however, require exempt employees to use accrued vacation or PTO if you have a policy that indicates you will do so, or if this has been your practice in the past. If your office has closed or sent people home for emergencies in the past and you have not required exempt employees to use vacation or PTO, and you want to require that this time around, you should indicate — ahead of the closure, if possible — that you are changing your policy or practice on this issue. When it comes to accrued vacation or PTO, it is safest to give employees advance notice if there are situations where you will use their accrued hours whether they like it or not.

For exempt employees who do not have sufficient vacation or PTO to cover the closure, you are still required to provide them with their full regular salary. The only scenario where you will not be required to pay an exempt employee their full salary is if the office is closed for an entire workweek (or the employee is unable to come in for an entire workweek) and they do no work at all from home.

Are employees required to provide documentation in support of leave taken under the FFCRA?

If you intend to claim a tax credit under the FFCRA for your payment of the sick leave or expanded family and medical leave wages, you should retain appropriate documentation in your records. You should consult Internal Revenue Service (IRS) applicable forms, instructions, and information for the procedures that must be followed to claim a tax credit, including any needed substantiation to be retained to support the credit. You are not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.



helpful links

<https://www.thinkhr.com/covid19/>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

We expect IRS guidance/forms to be released soon.

For leave under the EFMLA, employers may also request the following:

- A notice that has been posted on a government, school, or daycare website;
- A notice that has been published in a newspaper or online news article; or
- An email from an employee or official of the school, place of care, or childcare provider.

Making Working From Home Work

[Can we require or allow certain groups of employees, but not others, to work from home?](#)

Yes. Employers may offer different benefits or terms of employment to different groups of employees as long as the distinction is based on nondiscriminatory criteria. For instance, a telecommuting option or requirement can be based on the type of work performed, employee classification (exempt v. nonexempt), or location of the office or the employee. Employers should be able to support the business justification for allowing or requiring certain groups to telecommute.

[How do I make a telecommuting policy?](#)

Although some employers will be comfortable sending everyone home with their laptop and saying “go forth and be productive,” most will want to be a little more specific. A good telecommuting policy will generally address productivity standards, hours of work, how and when employees should be in contact with their manager or subordinates, and office expenses.

For instance, your policy might require that employees are available by phone and messaging app during their regular in-office hours, that they meet all deadlines and maintain client contacts per usual, and that they check in with their manager at the close of each workday to report what they have accomplished. Be sure to let employees know whom to contact if they run into technical difficulties at home.

You’ll also want to specify how expenses related to working from home will be dealt with. If you don’t expect there to be any additional expenses involved, communicate this. You don’t want employees thinking this is their chance to purchase a standing desk and fancy ergonomic chair on your dime. That said, you should consider whether employees will incur reasonable and necessary expenses while working from home. Some states mandate reimbursement for these kinds of expenses, but it’s a good practice to cover such costs even if it’s not required by law.

[How do we make sure we pay employees appropriately when they work from home?](#)

You’ll want to pay an employee that is working from home just like you would pay someone who is working in the office. Have them log their time and, if needed, report it to someone who can enter it into your payroll system (if this is something they can’t do themselves online). Nonexempt employees should take all the same breaks at home that they are required to take in the workplace. With respect to ensuring that people are actually doing work at home, you may want to set up regular check-ins to see that things are getting done. You can also require that employees remain available online via a messaging app and are available by telephone or for video conferences during working hours.

WORKFORCE AND UNEMPLOYMENT

Furloughs & Layoffs

[What's the difference between a furlough and a layoff?](#)

First, you should note that the language used when sending employees home for a period of time is less important than communicating your actual intent. Since temporary layoffs and furloughs are only used regularly in certain industries (usually seasonal), you should not assume that employees will know what they mean. Be sure to communicate your plans for the future, even if they feel quite uncertain or are only short-term.

Furlough

A furlough continues employment but reduces scheduled hours or requires a period of unpaid leave. The thought process is that having all employees incur a bit of hardship is better than some losing their jobs completely. For example, a company may reduce hours to 20 per week for a period of time as a cost-saving measure, or they may place everyone on a two-week unpaid leave. This is typically not considered termination; however, you may still need to provide certain notices to employees about the change in the relationship, and they would likely still be eligible for unemployment.

If the entire company won't be furloughed, but only certain employees, it is important to be able to show that staff selection is not being done for a discriminatory reason. You'll want to document the nondiscriminatory business reasons that support the decision to furlough certain employees and not others, such as those that perform essential services.

Layoff

A layoff involves terminating employment during a period when no work is available. This may be temporary or permanent. If you close down completely, but you intend to reopen in the relatively near future or have an expected reopening date — at which time you will rehire an employee, or all employees — this would be considered a temporary layoff. Temporary layoffs are appropriate for relatively short-term slowdowns or closures. A layoff is generally considered permanent if there are no plans to rehire the employee or employees because the slowdown or closure is expected to be lengthy or permanent.

“Be sure to communicate your plans for the future, even if they feel quite uncertain or are only short-term.”

Pay for exempt employees (those not entitled to overtime)

Exempt employees do not have to be paid if they do no work at all for an entire workweek. However, if work is not available for a partial week for an exempt employee, they must be paid their full salary for that week, regardless of the fact that they have done less work. If the point is to save money (and it usually is), it's best to ensure that the layoff covers the company's established seven-day workweek for exempt employees. Make it very clear to exempt employees that they should do absolutely no work during any week you're shut down. If exempt employees do any work during that time, they will need to be paid their normal weekly salary.

Pay for nonexempt employees (those entitled to overtime)



helpful links

<https://www.thinkhr.com/covid19/>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

Nonexempt employees only need to be paid for actual hours worked, so single day or partial-week furloughs can be applied to them without worrying about pay implications.

We recommend that you engage in open communication with the affected employees before and during the furlough or temporary layoff period.

[Our business is suffering due to COVID-19. We can't afford to pay people and might have to close. What do we do?](#)

This is understandably a very difficult situation for employers and their employees.

There are three basic options when it comes to keeping employees or letting them go: furlough (temporary reduction in hours of work or weeks of work); temporary layoffs (layoff with the intention of rehire, generally within six months); or permanent layoffs (layoff with no anticipated rehire date). In all situations, it's best to be very clear in written communications about your decision and work with an attorney.

Employees who are furloughed can still receive unemployment insurance benefits, so employers shouldn't feel like they have to terminate everyone just so they can receive unemployment insurance.

[Can we reduce pay because of economic slowdown due to COVID-19?](#)

You can reduce an employee's rate of pay based on business or economic slowdown, provided that this is not done retroactively. For instance, if you give employees notice that their pay will change on the 10th, and your payroll period runs from the 1st through the 15th, make sure that their next check still reflects the higher rate of pay for the first 9 days of the payroll period.

Nonexempt employees (those entitled to overtime)

A nonexempt employee's new rate of pay must still meet the applicable federal, state, or local minimum wage. Employees must be given notice of the change to their rate of pay, and some states require advance notice.

Exempt employees (those not entitled to overtime)

An exempt employee's new salary must still be at or above the federal or state minimum for exempt employees. The federal minimum salary is \$684 per week. Several states have weekly minimums that are higher than that (California and New York, for instance, are in the \$1,000 per week range). The minimum may not be prorated based on hours worked.

Exempt employee reclassification

If an exempt employee has so little work to do that it does not make sense to pay them the federal or state minimum (or you simply cannot afford to), they can be reclassified as nonexempt and be paid by the hour instead. This must not be done on a very short-term basis. Although there are no hard and fast rules about how long you can reclassify someone, we would recommend not changing their classification unless you expect the slowdown to last for more than three weeks. Changing them back and forth frequently could cause you to lose their exemption retroactively and potentially owe years of overtime.

WORKFORCE AND UNEMPLOYMENT

Employees with contracts or CBAs

Employees with contracts or CBAs

[If we choose to close temporarily, do we need to pay employees?](#)

It depends on the employee's classification.

Nonexempt employees only need to be paid only for actual hours worked. For these employees, you may:

1. Pay the employee for the time, even though they did not work;
2. Require they take the time off unpaid;
3. Require they use any available vacation time or paid time off (PTO); or
4. Allow employees to choose between taking an unpaid day or using vacation or PTO.

All four options are compliant with state and federal law. We generally recommend option 4 — allowing but not requiring employees to use vacation time or PTO. If your office is required to close by health authorities and your state has a sick leave law, employees may be able to use accrued paid sick leave during the closure.

Exempt employees must be paid their regular salary unless the office is closed for an entire workweek and they do no work at all from home. You can, however, require them to use accrued vacation or PTO during a closure if you have a policy that indicates you will do so, or if this has been your past practice. When it comes to accrued vacation or PTO, it is safest to give employees advance notice if there are situations where you will use their accrued hours whether they like it or not.

[Do we still offer the same benefits during a furlough due to COVID-19 as we did before? What about a layoff or closure?](#)

Check with your benefits provider before you take action. Eligibility for benefits during a furlough or layoff will depend on the specifics of your plan. For health insurance, if an employee would lose their eligibility during a furlough (or layoff), then federal COBRA or state mini-COBRA would apply.

[If we close temporarily, will employees be able to file for unemployment insurance?](#)

Yes. Employees should be encouraged to apply as soon as possible.

[I'm concerned about the cost of unemployment as well as how to advise employees about it. Any help?](#)

Remember that you don't pay unemployment insurance (UI) claims directly. They are paid by the state, and the state gets funds for that from unemployment insurance taxes that employers pay into regularly. Some employers are concerned that their UI tax rate will increase due to current layoffs, but it appears that many states (perhaps all) will essentially be forgiving COVID-19-related terminations with respect to future increases in UI tax rates.

Most employees who experience reduced hours, furloughs, or layoffs will be eligible for at least some unemployment insurance. Exactly how much will depend on a number of factors. Employees should be encouraged to file as soon as possible and to research rules, benefits, and options themselves to ensure they get the best benefit possible. We recommend that both employers and employees visit their state's unemployment insurance department website and track local and state news, as departments across the country are updating their rules to facilitate displaced workers during this time.



helpful links

<https://www.thinkhr.com/covid19/>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

Conclusion

Many small businesses are overwhelmed due to COVID-19. In this time of unprecedented need, we're offering the best information from our customer-only resources to the public, including this FAQ. We appreciate you sharing it with any employer who could benefit.

APPENDIX

CARES and PPP

https://www.uschamber.com/sites/default/files/023595_comm_corona_virus_smallbiz_loan_final.pdf

<https://choosecolorado.com/wp-content/uploads/2020/03/CARES-ACT-1.pdf>

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

SBA EMERGENCY LOANS GRANTS

<https://choosecolorado.com/wp-content/uploads/2020/03/CARES-ACT-1.pdf>

REGIONAL LOANS AND GRANTS

https://www.scan.org/uploads/COVID_loan_flyer.pdf

<https://www.fswcf.org/covid-19>

Workforce and Unemployment

<https://www.thinkhr.com/covid19/>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>



