



EDPMA News Alert: Small Business COVID-19 Loans Applications Accepted Today

Beginning today, April 3, 2020, certain eligible small businesses, which may include many physician groups, can apply for the Paycheck Protection Program (PPP) loans. A sample application form can be found [here](#). Generally, businesses with less than 500 employees are eligible.

According to the [U.S. Treasury Department](#), borrowers may "apply through any existing SBA 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 and to ensure all required information has been submitted. Visit www.sba.gov for a list of SBA lenders."

Loan proceeds must be spent on "allowed uses," whether or not the loan is ultimately forgiven. Please see the below FAQ document for additional information on allowed uses.

If a small business meets certain criteria for how it spent the loan proceeds, this loan may be subject to forgiveness. Even so, forgiveness would be reduced pursuant to certain formulas for employers who have laid off people or reduced wages or utilized other government programs (e.g., EIDL emergency grant program or certain tax changes), with some ability to restore forgiveness for re-hiring and reinstating wages. Given these issues, we strongly encourage our members to consult with your accountant or attorney before proceeding.

The SBA has recently indicated that the loan repayment period for any un-forgiven amounts will be two years.

Here are some memos that provide details on the loans and eligibility. They are also available on EDPMA's COVID-19 resources page accessed through "Latest News and Updates" on our homepage.

- [Small Business - Paycheck Protection Program](#)
- [Small Business - PPP FAQ](#)

Of particular interest to you, please pay close attention to the definition of

"employee" and "affiliated entities."

The legislative text defines "employee" as "individuals employed on a full-time, part-time, or other basis."

According to the SBA, the determination of the number of employees is the "average number of people employed for each pay period over the business's latest 12 calendar months. Any person on the payroll must be included as one employee regardless of hours worked or temporary status. The number of employees of a concern in business less than 12 months is the average for each pay period that it has been in business." The SBA calculates number of employees in accordance with [13 CFR 121.106](#). For more information on that definition, and others, visit [48 CFR 19](#).

Independent contractors: With respect to independent contractors, the SBA [website](#) notes the following:

How do I determine if I should include or exclude an independent contractor (i.e., a 1099 employee) from the employee pool?

Generally an independent contractor is not considered to be an employee. However, SBA will treat an independent contractor as an employee where there is evidence of an employee/employer relationship. SBA considers the totality of the circumstances in determining whether individuals are employees of a concern. This includes, but is not limited to, the criteria in SBA's Size Policy Statement No. 1 and the direction IRS provides for Federal income tax purposes, such as the Employer's Supplemental Tax Guide - Publication 15-A and the information in the IRS website.

Affiliated entities: According to the [SBA](#), you must include the employees or receipts of all affiliates when determining the size of a business. Affiliation with another business is based on the power to control, whether exercised or not. The power to control exists when an external party has 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Check the [SBA's compliance guide for size and affiliation](#) for more detailed information. The SBA determines affiliation in accordance with [13 CFR 121.103](#).

For this program, the SBA's affiliation standards are waived for small businesses (1) in the hotel and food services industries (click [HERE](#) for NAICS code 72 to confirm); or (2) that are franchises in the SBA's Franchise Directory (click [HERE](#) to check); or (3) that receive financial assistance from small business investment companies licensed by the SBA. According to the SBA/IRS, additional guidance may be released as appropriate.

Individuals who wish to apply as independent contractors or as self-employed individuals will be able to do so beginning on April 10th.
