June 2020

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Paycheck Protection Program

Information on Federal Assistance for Small and Mid-Size Carriers

NAFC
AMERICAN TRUCKING ASSOCIATIONS
NATIONAL ACCOUNTING & FINANCE COUNCIL

A Publication of the American Trucking Associations' National Accounting & Finance Council

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NATIONAL ACCOUNTING & FINANCE COUNCIL

ATA's National Accounting & Finance Council is a council within the American Trucking Associations (ATA), the largest national trade association for the trucking industry. We create value for our members through education, research, professional interaction and technical assistance regarding finance, accounting, tax, and risk management issues impacting the trucking industry. We advocate on behalf of our members in Washington, D.C. and develop industry best practices where appropriate.

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Introduction

The CARES Act is "Phase 3" of emergency COVID-19 relief legislation passed to help address the public health and economic crisis caused by the spread of the coronavirus disease. The legislation provides critical assistance to small and mid-size motor carriers in maintaining their payrolls and other operating costs during the economic downturn resulting from efforts to contain the pandemic. The CARES Act and supplemental funding provided $660 billion for the Small Business Administration (SBA) to provide loans to small businesses. The SBA's Paycheck Protection Program provides liquidity to businesses in the form of loans which are partially or fully forgivable. On June 5th, President Trump signed into law the Paycheck Protection Program and Health Care Enhancement Act, which provided additional flexibility in how businesses us their PPP funds.

Paycheck Protection Program

The following entities are eligible, provided they have 500 or fewer employees:

- **Small businesses**
- **Sole proprietors**
- **Independent contractors**
- **Employee stock ownership plans (ESOPs)**
- **501(c)3 nonprofits**

Owner operators and other independent contractors are not included in the employee count. The 500 employee threshold includes full and part-time employees.

Unlike other SBA standards, this program does not rely on average annual receipts. The number of employees serves to define who qualifies as a small business.

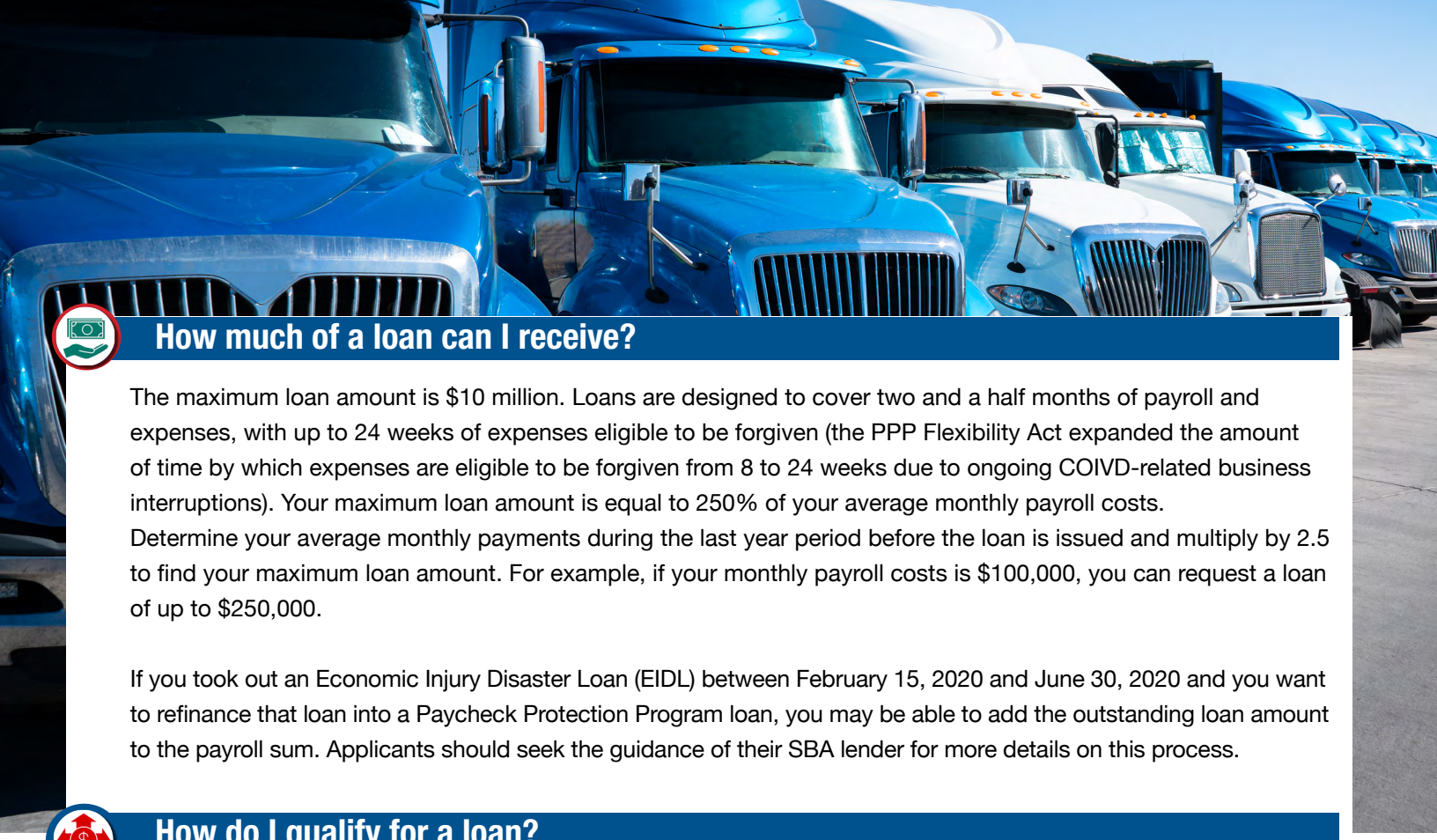
What can the loans pay for?

These loans can be applied retroactively to cover expenses incurred after February 15, 2020 and can be used for operating expenses incurred during the COVID19 outbreak, including:

- Payroll expenses
  - Wages paid to employees
  - Paid time off (sick leave, parental, etc.)
  - Severance pay
  - Health insurance premiums
  - Retirement benefits
  - Payroll taxes
- Rent
- Mortgage interest payments (but not principal payments or prepayment of interest)
- Interest paid on debt obligations incurred before February 15, 2020 (such as interest on trucks and trailer loans)
- Utilities (electricity, gas, water, transportation, telephone, internet)

What can the loans not be used for?

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



How much of a loan can I receive?

The maximum loan amount is $10 million. Loans are designed to cover two and a half months of payroll and expenses, with up to 24 weeks of expenses eligible to be forgiven (the PPP Flexibility Act expanded the amount of time by which expenses are eligible to be forgiven from 8 to 24 weeks due to ongoing COIVD-related business interruptions). Your maximum loan amount is equal to 250% of your average monthly payroll costs.
Determine your average monthly payments during the last year period before the loan is issued and multiply by 2.5 to find your maximum loan amount. For example, if your monthly payroll costs is $100,000, you can request a loan of up to $250,000.

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 Paycheck Protection Program loan, you may be able to add the outstanding loan amount to the payroll sum. Applicants should seek the guidance of their SBA lender for more details on this process.

How do I qualify for a loan?

If your business has 500 of fewer employees, was operational on February 15, 2020, had employees for whom it paid salaries and payroll taxes, and has been impacted by COVID-19, then you are likely eligible for a loan. You must make a good faith certification that you have been impacted by COVID-19 and will use the funds to retain workers and maintain payroll and other debt obligations.

Unlike other SBA loans, you are not required to prove you cannot receive credit elsewhere in order to receive funds provided under this program. Typical collateral and personal guarantee requirements are also waived under this program.

What are the terms of the loan?

There are no borrower or lender fees for participation. Loan amounts not forgiven within 10 months of the last day of the 24 week forgiveness period shall be carried forward as an ongoing loan with terms of a maximum of 5 years, at max 1% interest. Terms will be as for other SBA §7(A) loans, but with no personal guarantees.

How is the forgiveness amount calculated?

The Total Eligible Forgiveness Amount is equal to the total costs incurred and payments made during the eight weeks following the issuance of the loan for payroll (including benefits and taxes), utilities, mortgage interest and/or rent on a lease, as long as these costs were already in place before February 15, 2020. Notably, eligible payroll costs does not include compensation in excess of $100,000 for each employee. At least 60% of the forgiven amount must have been used for payroll (the PPP Flexibility Act reduced the required payroll share from 75% to 60%).

The forgiven portion of this loan will not be included in the borrower's taxable income.

What if I have to lay off employees or reduce their wages?

The loan forgiveness amount available to a borrower will be reduced if the borrower terminates employees or reduces employee wages by more than 25% of their prior year compensation during the eight week period following issuance of the loan. Furloughs serve as a wage reduction and would be penalized if they reduced an employee's wages by more than 25% compared to their previous year's compensation.

If layoffs or salary reductions were made between February 15, 2020 and April 26, 2020, borrowers will not be penalized if the borrower rehires employees or makes up for wage reductions by December 31, 2020 (note: this was updated from June 30, 2020 by the PPP Flexibility Act).

Additionally, borrowers will not be penalized by a reduction in their forgiveness amount due to a decline in the FTE employee count if the borrower, in good faith, is able to document:

(A) (i) an inability to rehire individuals who were employees on February 15, 2020; and
(ii) an inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020; or

(B) an inability to return to the same level of business activity as such business was operating at before February 15, 2020, due to compliance with requirements established or guidance issued by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration during the period beginning on March 1, 2020, and ending December 31, 2020, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID–19.

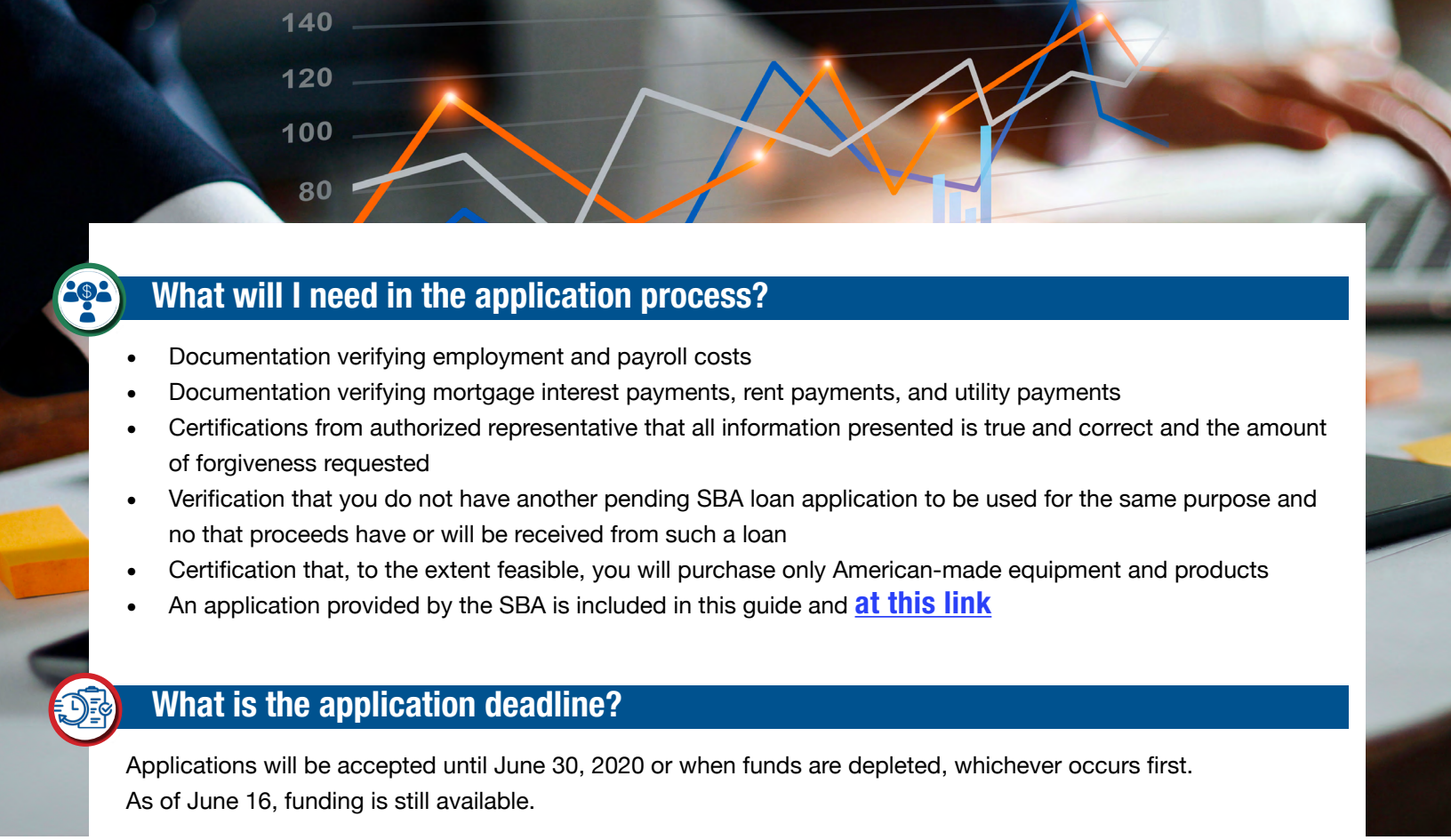
When will I have to make payments?

There is complete deferment of loan payments until the "date on which the amount of forgiveness determined under Section 1106 of the CARES Act is remitted by the lender." However, if you expect to have your loan forgiven, this loan effectively acts as a grant program. Any loan amounts not forgiven are carried forward as an ongoing loan with maximum terms of 5 years, at a maximum interest rate of 1%. Principal and interest will continue to be deferred, for a total of six months to a year after disbursement of the loan. A borrower that does not apply for forgiveness within 10 months after the last day of the 24-week forgiveness period must begin making principal and interest payments on the date that is 10 months after the ending date of the forgiveness period.

How do I apply?

Borrowers do not apply directly to the Small Business Administration, rather they should apply to authorized banks, credit unions and select other lenders. The lender will have 60 days to make a decision.

All current SBA 7(a) lenders eligible lenders for PPP. The Department of Treasury will also be in charge of authorizing new lenders, including nonbank lenders, to help meet the needs of small business owners.



What will I need in the application process?

- Documentation verifying employment and payroll costs
- Documentation verifying mortgage interest payments, rent payments, and utility payments
- Certifications from authorized representative that all information presented is true and correct and the amount of forgiveness requested
- Verification that you do not have another pending SBA loan application to be used for the same purpose and no that proceeds have or will be received from such a loan
- Certification that, to the extent feasible, you will purchase only American-made equipment and products
- An application provided by the SBA is included in this guide and **at this link**

What is the application deadline?

Applications will be accepted until June 30, 2020 or when funds are depleted, whichever occurs first.
As of June 16, funding is still available.

For more information about the Paycheck Protection Program, talk to your lender or visit the SBA's website:
https://www.sba.gov/funding-programs/loans/paycheck-protection-program