



New York State Attorney General Letitia James

Small Business Bulletin

on the Paycheck Protection Program

The recently enacted Paycheck Protection Program can be a potential lifeline for small businesses struggling due to the current crisis.

To ensure that New York's small businesses and non-profits gain access to these funds and avoid fraud in the process, the New York State Office of the Attorney General (OAG) developed this bulletin summarizing the program and highlighting some risks for small businesses to keep in mind. In addition, the OAG will continue to monitor the market and will take action to hold lenders and agents accountable for any efforts to defraud New York small businesses.

What is the Paycheck Protection Program?

The Paycheck Protection Program, or PPP, is a source of forgivable, low-interest, no-fee, no-collateral, no-personal-guarantee loans guaranteed by the U.S. government as a response to the coronavirus disease 2019 (COVID-19) pandemic. The loans are administered by eligible financial institutions (see below) under the authority of the U.S. Small Business Administration (SBA).

PPP loans are generally available to small businesses, non-profit and religious organizations with 500 or fewer employees, subject to some statutory and regulatory exceptions. PPP loans are also available to sole proprietorships, independent contractors, and self-employed persons.

Interest rates for PPP loans are fixed at 1% per year. Loans may be issued in amounts up to \$10 million, depending on borrowers' payroll costs, with no collateral or personal guarantee required. PPP loans have two-year terms, and borrowers make no payments until 6 months after taking out the loan, although interest will accrue during this time. Borrowers pay no fees on PPP loans.

The loan amounts will be forgiven as long as:

1. The borrower uses at least 75% of the loan proceeds to cover payroll costs (up to \$100,000 per year per employee) during the 8-week period after the loan is issued, with the remainder being used for payroll, mortgage interest, rent, and utilities; and
2. The borrower maintains employee and compensation levels.

PPP loans will be issued on a first-come, first-serve basis until funds designated by Congress are depleted. Congress has to date authorized \$349 billion for PPP loans nationwide. The program ends on June 30, 2020.

To learn more about PPP loans, be sure to read the following guides:

- The SBA's PPP loan overview, available at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>
- PPP Fact Sheet from the U.S. Treasury, available at <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>
- PPP Frequently Asked Questions (FAQs) from the U.S. Treasury, available at <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

5 Steps You Can Take to Protect Yourself and Your Business from Fraud When Applying for a PPP Loan

1. Deal Only with Trusted Lenders – and Don't Be a Victim to Phony PPP Lenders

- > Don't take out a PPP loan from a lender you do not trust or recognize without conducting appropriate due diligence. To find a lender eligible to issue PPP loans, visit the SBA's website at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>. Click the "**FIND A LENDER**" link to find an eligible lender located near you.
- > PPP rules allow the loans to be arranged by agents, including attorneys, accountants, and consultants. However, an agent is not required, and you should be wary of promises from parties who are not authorized lenders to expedite a loan on your behalf. To minimize the risk of fraud, you should contact an eligible, trusted lender yourself and not rely on agents or lenders that cold-call your business.
- > If you do decide to work with an agent, make sure the agent is a person or company you recognize and trust. Confirm in writing that the agent is working with specific lenders eligible to participate in the PPP program, and confirm in writing the agent's full name, phone number, and mailing address. Do not pay the agent any fees (see below).
- > Some lenders may advertise PPP loans even though they have no authority from the U.S. government to do so. They may also advertise loans "administered" by the SBA, even though true PPP loans are administered only by lenders, not the SBA itself.
- > If an unauthorized lender promises a PPP loan or a loan "administered" by the SBA, that promise may be a sham, and the lender may be trying to sell you a different type of loan or funding – possibly with higher interest than permitted for PPP loans and with improper fees. Always confirm that a lender is eligible to issue PPP loans and that you are being offered a product consistent with terms of the PPP program described above.

2. Make Sure the Information in Your Loan Application is 100% Correct, and Don't Let Anyone Add Information that Isn't Accurate

- > Unscrupulous agents or lenders may encourage borrowers to put false information in their loan applications in order to get the biggest loan possible (and to maximize their fees).
- > Don't be a victim to this fraudulent practice. A fraudulent loan application can result in criminal liability for the borrower. To avoid this risk, make sure that everything in your application is correct, and don't let any agent or lender put inaccurate information in it.

3. Don't Pay Fees to Get a PPP Loan

- > Lenders and agents may not charge borrowers fees or commissions in order to issue and service PPP loans.
- > Lenders will be paid fees only by the SBA, not by borrowers. The SBA will pay lenders processing fees of 5% (for loans up to \$350,000), 3% (for loans more than \$350,000 but less than \$2 million), or 1% (for loans of \$2 million or more).
- > If you are working with an agent, the agent's fees are to be paid only by the lender, and the agent is not allowed to charge you anything or take any amounts from the principal of your loan.

4. Don't Pay above 1% Annual Interest for a PPP Loan

- > PPP loans are low-interest loans, with annual interest rates of just 1% per year. Do not agree to any PPP loan that carries an interest rate higher than 1%.

5. Watch the Small Business Administration's Website for New Developments

- > This Consumer Alert from the OAG reflects guidance from the U.S. government as it exists on April 14, 2020. But the PPP is a brand-new program, and its rules could change from day to day. Be sure to regularly check the Small Business Administration's website at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp> for new developments concerning PPP loans.

Have You Been Defrauded in Connection with a PPP Loan?

If you believe you have been defrauded by someone offering, issuing, or servicing a PPP loan, or if you have been offered a PPP loan by a lender that does not appear on the SBA.gov website as an eligible lender, you may file a complaint with the OAG's Office of Consumer Frauds and Protection, either online at <https://ag.ny.gov/consumer-frauds/Filing-a-Consumer-Complaint> or by phone at (800) 771-7755.

You may also submit a complaint to the U.S. Federal Trade Commission at <https://www.ftccomplaintassistant.gov>.

Be sure to save all documents and communications concerning the loan, including agreements, emails, and advertising.