

This Guide to PUA and PPP for Freelance Translators and Interpreters is based on discussions on the ATA's Business Practices listserv (<https://groups.io/g/ATA-Business-Practices/>), and you are encouraged to subscribe to this group (available at no cost to all ATA members) to access the latest information on PPP in particular. You are also most welcome to post any questions you may have about PPP/other programs and translators/interpreters there. This Guide may be updated, if still relevant, once the SBA has issued its "final final" rules.

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Background: In response to the economic crisis resulting from the Covid-19 pandemic, the U.S. Federal Government launched a number of programs to help businesses and individuals who would not normally be eligible for emergency funding or unemployment benefits. Two of these programs are potentially interesting for freelance translators and interpreters, who may be eligible for support under at least one of the programs. Information on these programs is summarized in the following and is based on posts in the ATA Business Practices newsgroup, among other sources.

Pandemic Unemployment Assistance (PUA):

If you or a member of your household have been diagnosed with Covid-19, you may be eligible for PUA program support. There are also other "personal" criteria that might apply. In other cases:

Translators are unlikely to be eligible for PUA because they have a job that can be performed remotely from home.

Interpreters might be eligible for PUA if they are an in-person interpreter and the place or places they work (e.g., courts, conferences, etc.) are closed. They are unlikely to be eligible if they are an OPI, VRI, or RSI interpreter because these are activities they can perform from home.

PUA basically pays the standard unemployment benefits in the claimant's state of residence, which vary considerably by state in terms of both the weekly amount payable (from \$235 to \$1,234) and the number of weeks for which benefits are paid (from 12 to 26). Eligible claimants may also be entitled to receive the \$600 per week federal top-up payment under the CARES Act (which is currently set to expire around the end of July 2020).

More information here: <https://www.dol.gov/newsroom/releases/eta/eta20200405>

and from the state agencies responsible for processing claims for unemployment benefits.

Paycheck Protection Program (PPP):

The PPP is available for small businesses, sole proprietorships, independent contractors, or other self-employed persons, including freelance translators and interpreters (U.S. citizens and permanent residents). The primary eligibility condition for a PPP loan is that the borrower's business must have been affected by COVID-19. Many translators and interpreters have reported that their business has been significantly impacted by the pandemic, which means that they are prime candidates to receive a PPP loan.

The borrower must apply for a loan equivalent to ten weeks' average payroll. The loan must be used to cover payroll expenses (net profit in the case of most freelancers), rental or mortgage payments, and utilities. If a certain percentage of the loan amount is used for payroll, it can become forgivable (meaning that it does not have to be repaid). Documentary evidence of how the loan has been used must be produced for it to become forgivable. More detailed information about loan forgiveness and the required calculations is provided below.

The first round of the PPP opened on April 3, 2020, with the available funding being exhausted by April 17, 2020 at the latest. As a result, no funding was available for hundreds of thousands of applications, mainly from very small businesses, sole proprietorships, and self-employed persons. You might have read in the media about significant volumes of PPP loans going to large public companies, some of which decided to repay the loans following adverse publicity and comments by the Treasury Secretary. It became absolutely clear that the amount originally earmarked for PPP loans was wholly inadequate, so Congress approved a second round of PPP funding on April 23, 2020. Second round PPP funding started being approved on April 27, 2020, and much of the funding has been earmarked for very small businesses and the self-employed.

PPP funds worth well over \$100 billion were still available as of the issue date of this version of the Guide, so interested translators and interpreters should file their application without delay as they stand a good chance of being approved for a PPP loan. Please remember that the program ends on June 30, 2020!

You cannot apply directly to the Small Business Administration (SBA). The application has to be made through an SBA-approved bank. You should normally apply through the bank where you maintain your business checking/deposit account, but experience to date shows that larger banks in particular are struggling to process all the applications they have received. In this case, you are encouraged to apply through a small local or regional bank, or through a fintech (fintechs are nontraditional financial service providers whose offering is driven by mostly innovative IT solutions) even if you don't already have an account with them.

A number of colleagues have posted examples of successful applications through fintechs on the Business Practices group, including online lenders that have teamed up with banks and non-bank lenders already approved to make SBA loans. However, other colleagues have also reported less positive experiences with fintechs. Also, please remember that the bank or fintech will have to do due diligence first (know your customer/anti-money laundering) and this may delay your application. This may also require you to provide personal information, including your SSN. But it shouldn't stop you from trying!

If you are an S-Corp/C-Corp, you will need to provide your 2019 forms 940 and 941, and possibly your Q1/2020 form 941 as well. If you are not an S-Corp/C-Corp, which is the case for the overwhelming majority of freelance translators and interpreters, you will need to produce documentary evidence of your average net profit before tax from self-employment. The best way to do that, of course, is by submitting your 2019 income tax return (Schedule C, line 31).

If you haven't filed your 2019 return yet, the lender might conceivably accept your own 2019 accounts, e.g., in the form of a cash-basis income statement, which you would then have to self-certify as being accurate. However, lenders you apply to may insist on your 2019 tax return. Unfortunately, it is not possible to state with any certainty exactly which documentation any particular lender may require, so the above information is merely indicative.

Please remember that the lender (bank or fintech) does not approve the loan application. That authority is reserved for the SBA, and experience to date indicates that the SBA is most likely to accept and quickly approve loan applications for which standardized information is supplied, in particular 2019 income tax returns.

Another question that has arisen is if you can apply for both PPP and unemployment benefits. As a rule, it appears that this is not possible. The reason is that PPP is only available to employers (even if you yourself are the only employee) to keep paying their employee payroll, and unemployment benefit is only available to employees who have been made redundant or furloughed. You can't be both an employee still being paid and unemployed/furloughed at the same time!

Overall, it appears that PPP is by far the more appropriate option for translators and (most) interpreters.

More information about the PPP is widely available on the web, including on the SBA's website here:

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

Accounting for PPP loans

Rödl & Partner USA has published some useful guidance on how to account for PPP loans:

https://www.roedl.us/trending/tax_matters/ppp-loan-practices-to-consider

Most of this guidance applies only to companies with more than one employee, i.e., not to solo freelancers, single-member LLCs and S-Corps, etc.

However, the following items may also apply to solo freelancers and single-member LLCs/S-Corps:

Item 2: If you are lucky enough to have qualified for income of more than \$100,000 a year, any pro-rated monthly income in excess of \$8,333 should be paid into a separate bank account, because it is disregarded for PPP purposes.

Item 5: You can only claim mortgage interest payments (not repayments of principal) for PPP funding.

Item 7: Should be self-evident.

Item 12: Applies to all PPP borrowers, regardless of their size.

How can you document payment of payroll/income? One suggestion is through a transfer or direct deposit of the relevant amount to your personal bank account with a memo like "Payroll", "Payroll costs," "Payroll for [month]," or "Personal withdrawal," as appropriate.

Apparently accounting software such as QuickBooks might want to split the monthly payroll costs into salary and payroll taxes and only allow the net salary to be paid. The simple answer to this is to bypass the software and make a manual transfer or direct deposit of the relevant full payroll amount from your business account to a private account.

Tax issues

The tax aspects of PPP loans have now turned out to be rather more complicated than originally assessed, including by tax experts.

Section 1106(i) of the CARES Act excludes forgiven loan amounts from gross income. However, there is no reference there to the provisions of the Internal Revenue Code dealing with the tax consequences of loan forgiveness, so the IRS issued Notice 2020-32 on April 30, 2020, addressing the deductibility of PPP loans. Basically, the IRS says that expenses paid using PPP loans cannot be deducted for tax purposes if the amounts are forgiven, because the forgiven loan amounts are tax-exempt. What this means is that the tax consequences are the same as if the PPP loans were included in gross income and taxed. Apparently this had not been expected by tax experts, because Congress explicitly excluded PPP loans from gross income. The inability to deduct the expenses covered by the PPP loan may reduce the tax benefit for recipients of PPP loans.

As stated in the May 15, 2020, edition of the *ATA Newsbriefs* (and previously noted in the Business Practices group by ATA President Ted Wozniak), some members of Congress disagree with the IRS's decision. Senator John Cornyn (R-TX) has sponsored the Small Business Expense Protection Act, which would clarify that business expenses paid with forgiven PPP loans are tax-deductible. The tax position regarding the deductibility of expenses covered by PPP loans may therefore change at any time.

Because the potential tax consequences of the IRS Notice may be too complex in individual cases for persons who do not have the relevant professional training, translators and interpreters who have received a PPP loan are strongly advised to discuss those consequences with a professional advisor. The same advice may apply if you rely on standard commercial tax software to prepare your tax returns.

PPP loan forgiveness

The SBA issued the first version of its Loan Forgiveness Application form on May 15, 2020. It is divided into five sections with a total of 11 pages: definitions and instructions; PPP loan forgiveness calculation form; borrower's certification; calculation worksheet; and an optional borrower demographic information form. It stipulates substantial documentation requirements, including account statements, tax forms, receipts, and others.

Note that only costs paid or incurred within the eight-week period are eligible for forgiveness. An alternative calculation method is allowed, but it only applies if the borrower has employees with a pay period after the end of the eight-week period and is therefore of little or no relevance for freelance translators and interpreters.

Under the initial SBA rules, at least 75% of the loan amount had to be spent on payroll to qualify for forgiveness. At the same time, a maximum of 25% of the loan amount could be spent on other operating costs (rent/mortgage interest payments, utilities). What this meant is that, because the loan amount disbursed is equal to ten weeks' payroll, at least 20% (but not more than 25%) of the loan amount had to be spent on non-payroll costs in the eight-week forgiveness period (stipulated by the initial rules) to be forgivable.

Consequently, a maximum of 80% of the loan principal could be spent on forgivable payroll costs during the eight-week forgiveness period, and any additional amount not spent on forgivable non-payroll costs became an interest-bearing loan (2 years at 1% interest, with the first payment of any non-forgivable amounts not due until six months after disbursement).

The first version of the SBA's Loan Forgiveness Application was met by a barrage of criticism from lenders and borrowers, who found fault with both the complexity and the sheer volume of the required information.

The U.S. Senate passed the Paycheck Protection Program Flexibility Act (PPPFA) on June 3, 2020, following House passage of the bill on May 27, 2020. It was signed into law on June 5, 2020, and is designed to address many of the concerns addressed by small businesses and lenders.

The PPPFA reduces the amount of the PPP loan that has to be spent on payroll from 75% to 60%, but does not change the classes of expenses eligible for forgiveness. Businesses had lobbied for a significant extension to these expenses to include inventory, PPE, remote working costs, and other expenses. It is still possible that the SBA may amend the eligible expenses.

Probably of greater interest to most freelance translators and interpreters is the extension of the time period for using the funds from eight to 24 weeks. This is more likely to result in complete loan forgiveness. Note that businesses who received their PPP loan approval before June 5, 2020, can opt to apply either the eight-week OR the 24-week forgiveness period. The 24-week period applies to all PPP loans approved on or after June 5, 2020.

The repayment term has been extended from two to five years (for loans made on or after June 5, 2020), and the first payment will now be deferred for six months after the SBA has made a determination on forgiveness. Since banks have 60 days to make a forgiveness determination and the SBA has a further 90 days on top of that, it is possible that the first payment on some loans will not be due until sometime in the spring of 2021.

Treasury Secretary Mnuchin and SBA Administrator Carranza issued a statement on the PPPFA on June 8, 2020, stating that the SBA will “promptly” issue rules and guidance, a modified borrower application form, and a modified loan forgiveness application form, implementing the PPPFA. Although the SBA has not yet issued the **Final** Interim Financial Rule, the “Interim Final Rule on Revisions to the Interim Final Rule” contains a number of amendments and clarifications, for example that borrowers who do not meet the new 60% threshold remain eligible for partial forgiveness for eligible amounts lower than 60%.

The SBA issued revised guidance on June 12, 2020, including changes to the “look-back period” for applicants convicted of felony offenses, as well as new borrower and lender application forms.

On June 16, 2020, the SBA then issued an “EZ” version of the PPP Loan Forgiveness Application designed specifically for self-employed persons, independent contractors, sole proprietors without employees, and small businesses that a) did not reduce the annual salary or wages of any of their employees, and b) also did not reduce the number of employees. This new “simplified” form is designed to make forgiveness a less bureaucratic process for borrowers, but many banks have countered that it is still too complicated and burdensome and are seeking further clarity from the SBA before they start processing forgiveness applications. Additionally, the National Association of Federally Insured Credit Unions has called for automatic forgiveness for all loans of under \$150,000.

As of June 22, 2020, translators and interpreters may be able to make the most of a PPP loan by opting for the 24-week forgiveness period, which could allow them to claim all of the PPP loan amount as forgivable payroll costs, provided they meet the general PPP eligibility criteria. However, they are advised not to apply for forgiveness until their lender has informed them that it is satisfied with the SBA’s forgiveness process and is able to process forgiveness applications.

Please remember that the application period for the program ends on June 30, 2020!

Economic Injury Disaster Loans

What other assistance programs are available? Check out the SBA’s website for an overview of other funding programs available to small businesses, in particular Economic Injury Disaster Loans (EIDL) and Emergency Advances. Although these loans were reserved for agricultural businesses for a few weeks, they have now been reopened and are available—on a first-come-first-serve basis—to all self-employed persons and small businesses in the United States (U.S. citizens and permanent residents).

Forgivable “Emergency Advances” are available for sole proprietorships, independent contractors, and single-member LLCs (up to \$1,000), and for other small businesses (\$1,000 per employee, maximum \$10,000). Small businesses of all types can additionally apply for 30-year loans (3.75% interest) under the EIDL program over and above the “Emergency Advance”. The amount of the EIDL loan is linked to revenue and cost of goods sold (COGS). Although cash-basis preparers (which include the vast majority of translators and interpreters) don’t report COGS, according to a CPA this can be considered to be costs of subcontractors and merchant payment fees (if any). The online application process for the EIDL program can be accessed here:

<https://covid19relief.sba.gov/#/>