



OCUL Overview: Payroll Protection Program Guidance

Overview

The Small Business Administration (SBA) received \$350 billion in funding through the Coronavirus Aid, Relief, and Economic Security Act, or the "CARES Act," to establish a new loan program, or the [Paycheck Protection Program \(PPP\)](#), to assist small businesses nationwide adversely impacted by the COVID-19 emergency. SBA is authorized to guarantee loans and delegate all lenders authority under this new7(a) loan program through June 30, 2020.

Program Requirements

SBA will allow lenders to rely on certifications of the borrower in order to determine program eligibility and use of loan proceeds, specifically through specified documents provided by the borrower to determine qualifying loan amount and eligibility for loan forgiveness. Lenders must comply the applicable lender obligations [set forth in this interim final rule](#) but will be held harmless for borrowers' failure to comply with program criteria. Additionally, remedies for borrower violations or fraud are separately addressed.

Borrower Requirements

Small businesses meeting the following requirements are eligible to participate in PPP through the [SBA Borrower Application Form 2483](#) if they are:

- An employer with 500 or fewer employees whose principal place of residence is in the United State, or that meet specific industry requirements.
- A tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC), a tax-exempt veterans organization described in section 501(c)(19) of the IRC, Tribal business concern described in section 31(b)(2)(C) of the Small Business Act, or any other business; and were in operation on February 15, 2020 and either had employees for whom you paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099-MISC.
- Individuals who operate under a sole proprietorship, or as an independent contractor, or eligible self-employed individual in operation on February 15, 2020, and file appropriate documentation attesting to proprietorship, payroll disbursements, etc.

If a small business is determined to be eligible for PPP, the following steps must be taken:

- Under the PPP, the maximum loan amount is the lesser of \$10 million or an amount that is calculated using a payroll-based formula specified in the CARES Act with the following methodology*:
 - Step 1: Aggregate payroll costs from the last twelve months for employees whose principal place of residence is the United States.
 - Step 2: Subtract any compensation paid to an employee in excess of an annual salary of \$100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of \$100,000 per year.
 - Step 3: Calculate average monthly payroll costs (divide the amount from Step 2 by 12).
 - Step 4: Multiply the average monthly payroll costs from Step 3 by 2.5.



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- Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020, less the amount of any “advance” under an EIDL COVID-19 loan (because it does not have to be repaid).

****Refer to page 9 of the provided PPP guidance for a calculation methodology example and pages 10 and 11 for qualified specific payroll costs***

- Independent contractors do not qualify for PPP due to their eligibility to directly apply for PPP.
- The PPP loan interest rate is set at 100 basis points or 1%.
- The maturity date for the loan is two years.
- Eligible small businesses may only receive one PPP loan so as a best practice, application for the maximum amount allowed is encouraged.
- Electronic or e-signatures are permitted.
- PPP is a first-come, first-served loan program.
- PPP loans can be forgiven for up to the full principal amount of the loan and any accrued interest
 - The actual amount of loan forgiveness will depend, in part, on the total amount of payroll costs, payments of interest on mortgage obligations, rent payments on leases, and utility payments under service agreements all dated before February 15, 2020, over the eight-week period following the date of the loan. However, not more than 25 percent of the loan forgiveness amount may be attributable to nonpayroll costs.
- PPP loans are to be used for:
 - payroll costs
 - costs related to the continuation of group health care benefits during
 - periods of paid sick, medical, or family leave, and insurance premiums
 - mortgage interest payments (but not mortgage prepayments or principal payments)
 - rent payments
 - utility payments
 - interest payments on any other debt obligations that were incurred before February 15, 2020
 - Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020 under specified circumstances.
- 75% of the PPP loan proceeds must be attributed to approved payroll costs.
- PPP loan funds spent for unauthorized purposes must be repaid.
- On the PPP application, an authorized representative of the applicant must certify in good faith a list of specific requirements included on pages 17-19 of the guidance.

Lender Requirements

Lenders meeting the following requirements are eligible to offer PPP loan access if they are:

- An approved SBA 7(a) lender
 - Approved SBA 7(a) lenders can utilize the [Lender Application SBA Form 2484](#).
- A lender meeting the following criteria unless currently designated in Troubled Condition or subject to a formal enforcement action to address unsafe or unsound lending practices:



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- **Any federally insured depository institution or any federally insured credit union.**
- Any Farm Credit System institution that applies the requirements under the Bank Secrecy Act.
- **Any depository or non-depository financing provider that originates, maintains, and services business loans or other commercial financial receivables and participation interests; has a formalized compliance program.**

***Qualified institutions described in 3.a.iii. I. and II. will be automatically qualified under delegated authority by the SBA upon transmission of CARES Act Section 1102 Lender Agreement [SBA Form 3506](#).**

SBA Form 3506 is a necessary application for those credit unions that are not currently approved SBA 7(a) lenders to enable their lender participation in the Paycheck Protection Program. Completed SBA Form 3506 applications should be submitted to DelegatedAuthority@sba.gov for approval to begin offering PPP loans to member businesses.

- Each lender shall:
 - Confirm receipt of borrower certifications contained in [Paycheck Protection Program Application](#) form.
 - Confirm receipt of information demonstrating that a borrower had employees for whom the borrower paid salaries and payroll taxes on or around February 15, 2020.
 - Confirm the dollar amount of average monthly payroll costs for the preceding calendar year by reviewing the payroll documentation submitted with the borrower's application.
 - Follow applicable BSA requirements:
 - Federally insured depository institutions and federally insured credit unions should continue to follow their existing BSA protocols when making PPP loans to either new or existing customers who are eligible borrowers under the PPP. PPP loans for existing customers will not require reverification under applicable BSA requirements, unless otherwise indicated by the institution's risk-based approach to BSA compliance.
 - Entities that are not presently subject to the requirements of the BSA, should, prior to engaging in PPP lending activities, including making PPP loans to either new or existing customers who are eligible borrowers under the PPP, establish an anti-money laundering (AML) compliance program equivalent to that of a comparable federally regulated institution.
- Each lender's underwriting obligation under the PPP is limited to the items above and reviewing the borrower's application form. Borrowers must submit such documentation as is necessary to establish eligibility as listed on page 23 of the guidance
- The lender does not need to conduct any verification if the borrower submits documentation supporting its request for loan forgiveness and attests that it has accurately verified the payments for eligible costs. **The SBA Administrator will hold harmless any lender that relies on such borrower documents and attestation from a borrower.**
- SBA will pay lenders fees for processing PPP loans in the following amounts:
 - Five (5) percent for loans of not more than \$350,000
 - Three (3) percent for loans of more than \$350,000 and less than \$2,000,000



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- One (1) for loans of at least \$2,000,000
- When evaluating an applicant's eligibility, lenders will not be required to apply the "credit elsewhere test"
- Loans will be guaranteed under the PPP under the same terms, conditions and processes as other 7(a) loans, with certain changes including but not limited to:
 - The guarantee percentage is 100 percent
 - No collateral will be required
 - No personal guarantees will be required
 - The interest rate will be 100 basis points or 1%
 - All loans will be processed by all lenders under delegated authority and lenders will be permitted to rely on certifications of the borrower in order to determine eligibility of the borrower and the use of loan proceeds.
- Fee waivers are permissible under specified circumstances on page 25 of the guidance
- Agent fees will be paid by the lender out of the fees the lender receives from SBA, with limitations itemized on pages 25 and 26 of the guidance.
- Lenders may sell a PPP loan on the secondary market after the loan is fully disbursed.
- A lender may request that the SBA purchase the expected forgiveness amount of a PPP loan or pool of PPP loans at the end of week seven of the covered period.

Additional Information

- All loans guaranteed by the SBA pursuant to the CARES Act will be made consistent with constitutional, statutory, and regulatory protections for religious liberty, including the First Amendment to the Constitution, the Religious Freedom Restoration Act.