

PPP Guidance

(Per SBA Interim Final Rule published April 2, 2020)

INTEREST RATE – 1.0% (part 2i)

TERM – Two (2) years (part 2j)

MAXIMUM LOAN AMOUNT - \$10,000,000 (part 2d)

PAYMENTS – Deferred for (six) months. (Interest continues to accrue.) (part 2n)

COLLATERAL - No collateral or personal guarantees required (part 4a)

FORMS NEEDED BY BORROWER – (part 2q)

- **SBA Form 2483 (PPP Application)**
- **Payroll documentation**

LENDER FORMS – (part 2q)

- **SBA Form 2484 (PPP Lender application for guaranty)**
- **Must be filed electronically**

ELIGIBLE BUSINESSES (part 2a)

- A small business with fewer than 500 employees
- A small business that otherwise meets the SBA's size standard
- A 501(c)(3) not-for-profit charitable organization with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A Tribal business concern that meets the SBA size standard
- A 501(c) (19) Veterans Organization that meets the SBA size standard
- If you are in the accommodation and food services sector (NAICS 72), the 500-employee rule is applied on a per physical location basis
- If you are operating as a franchise or receive financial assistance from an approved Small Business Investment Company, the normal affiliation rules do not apply

INELIGIBLE BUSINESSES (part 2b)

- Businesses engaged in illegal activity under federal, state or local law. (Cannabis warning)
- A household employer (you have a nanny, staff, etc.)
- Any previous defaults on a federal loan in last 7 years

WHAT LENDERS WILL NEED

A. GOOD FAITH CERTIFICATION THAT - (part 2t)

1. The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
2. The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments
3. Borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here
4. From Feb. 15, 2020 to Dec. 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here (Note: There is an opportunity to fold emergency loans made between Jan. 31, 2020 and the date this loan program becomes available into a new loan)

B. PAYROLL DOCUMENTS – (part 2a)

- These can be payroll processor records, payroll tax filings, or Form 1099MISC, or income and expenses from a sole proprietorship.
- For borrowers that do not have any such documentation, the borrower must provide other supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount.

DETERMINING LOAN AMOUNT: (part 2e)

Step 1: Aggregate payroll costs (defined in detail below in f.) 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.

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).

DETERMINING PAYROLL: (part 2f)

The sum of payments of any compensation with respect to employees that is a:

- salary, wage, commission, or similar compensation;
- payment of cash tip or equivalent;
- payment for vacation, parental, family, medical, or sick leave
- allowance for dismissal or separation
- payment required for the provisions of group health care benefits, including insurance premiums
- payment of any retirement benefit
- payment of state or local tax assessed on the compensation of the employee

EXCLUDED PAYROLL COSTS (part 2g)

- Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
- Payroll taxes, railroad retirement taxes, and income taxes
- Any compensation of an employee whose principal place of residence is outside of the United States
- Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116– 5127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

DO NOT COUNT INDEPENDENT CONTRACTORS (part 2h)**USE OF PROCEEDS** (part 2r)

- 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 (not mortgage prepayments or principal payments), Rent, Utilities
- 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.

If a borrower received an EIDL loan between 1/1/20 and 4/3/20 they may apply for a PPP loan. If the EIDL was not used for payroll costs, it does not affect their eligibility for a PPP loan. If the EIDL loan was used for payroll costs, the PPP loan must be used to refinance your EIDL loan. Any advance on the EIDL will be deducted from the loan forgiveness amount on the PPP loan.

75% Rule (part 2r)

At least 75 percent of the PPP loan proceeds shall be used for payroll costs. For purposes of determining the percentage of use of proceeds for payroll costs, the amount of any EIDL refinanced will be included. For purposes of loan forgiveness, however, the borrower will have to document the proceeds used for payroll costs in order to determine the amount of forgiveness.

LOAN FORGIVENESS (part 2o)

The amount of loan forgiveness can be up to the full principal amount of the loan and any accrued interest.

The borrower will not be responsible for any loan payment if the borrower uses all of the loan proceeds for “forgivable” purposes and employee and compensation levels are maintained.

The actual amount of loan forgiveness will depend, in part, on the total amount of payroll costs, payments of interest on mortgage obligations incurred before February 15, 2020, rent payments on leases dated before February 15, 2020, and utility payments under service agreements dated before February 15, 2020, over the eight-week period following the date of the loan.

Not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs.

NOTE –

I have compiled this guidance from the SBA Interim Final Rule and provided references to the pertinent sections. However, there may still be unanswered questions. For instance, what is a sole proprietor with only 1099 contractors supposed to do? I assume exclude all employees save himself and then apply. I am sure other questions will arise. CER