



**Independent  
Bankers  
Association  
of Texas**

Route To:

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*Compliance Information for Community Bankers by Community Bankers*

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**Paycheck Protection Program – Full Breakdown  
Updated upon publication of Interim Final Rule on April 2, 2020**

**Summary of Final Guidance on SBA Paycheck Protection Program April 2, 2020**

**BORROWER INFORMATION**

**Eligible Borrowers**

- 1) A business, including a qualifying nonprofit organization, is eligible for PPP loans if it
  - (a) meets the applicable North American Industry Classification System (NAICS) Code-based size standard or other applicable 7(a) loan size standard, both alone and together with its affiliates; or
  - (b) has an employee headcount that is lower than the greater of
    - (i) 500 employees or
    - (ii) the employee size standard, if any, under the applicable NAICS Code. More information on the NAICS-Code-based size standards can be [found here](#). Businesses that fall within NAICS Code 72, which applies to accommodations and food services, are also eligible if they employ no more than 500 people per physical location.

Sole proprietorships, independent contractors, and self-employed individuals are also eligible.
- 2) Business was in operation on February 15, 2020 and either had employees for whom you paid payroll taxes or paid independent contractors
- 3) Individual who operates under a sole proprietorship, or as independent contractor, or eligible self-employed individual and you were in operation on February 15, 2020.

<b>Ineligible Borrowers</b>	<p>Businesses engaged in any illegal activity</p> <p>Household employers</p> <p>Business where any owner of 20% or more is incarcerated, on probation, under indictment, criminal information, arraignment or other means by which formal criminal charges are brought in any jurisdiction or has been convicted of a felony within last 5 years.</p> <p>This business, or any business owned or controlled by borrower or any of business owners of 20% or more has a federal loan that is currently delinquent or has defaulted on a loan in last 7 years where the government had a loss.</p> <p>Businesses otherwise deemed not eligible as identified in SBA’s Standard Operating Procedures (SOP) 50 10, Subpart B, Chapter 2, except for non-profits authorized under the CARES Act. <b>SOP 50 10</b> <a href="#">can be found here.</a></p> <p>Some examples: Banks, Life Insurance Companies (but not independent agents), Finance Companies, Factoring Companies, Investment Companies, Bail Bond Companies and other businesses whose stock in trade is money.</p>
<b>Maximum Number of Loans</b>	1 per business
<b>Maximum Loan Amount</b>	Lesser of \$10 Million or 2.5 times the average monthly salary over the last 12 months
<b>Calculation of Maximum Loan Amount</b>	<p>2.5 times the average monthly payroll costs of last 12 months Less any salary compensation or amounts paid to independent contractor or sole proprietor in excess of \$100,000</p> <p>Example: No employees make over \$100,000 Annual payroll=\$120,000 Average Monthly payroll=\$10,000 Multiply by 2.5=\$25,000 Maximum loan amount is \$25,000</p>
<b>Qualified Payroll Costs</b>	<p>Salary, wages, commissions, or similar compensation, cash tips or equivalent.</p> <p>Payment for vacation, parental, family, medical and sick leave; allowances for dismissal or separation; payments for group health care benefits, including insurance premiums; and retirement benefits.</p>

	<p>Calculations vary slightly for seasonal businesses and businesses that were not in operation between February 15 and June 30, 2019.</p> <p>Independent contractors can apply for a PPP loan, so they do not count for purposes of a borrower's PPP loan calculation.</p>
<b>Forgivable Amount</b>	Up to the full principal amount of the loan plus any accrued interest; only 25% may be for non-payroll expenses.
<b>Permissible purpose of proceeds and forgiveness calculation</b>	<p>Qualified payroll costs (75% must be used for payroll costs)</p> <p>Costs related to group health care benefits during periods of paid sick, medical, or family leave insurance premiums</p> <p>Mortgage interest payments (but not mortgage prepayments or principal payments) and rent</p> <p>Utility payments</p> <p>Interest payments on any other debt obligations that were incurred before February 15, 2020</p> <p>Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020. If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan.</p> <p>The amount forgiven will be reduced based on failure to maintain the average number of full-time equivalent employees versus the period from either February 15, 2019 through June 30, 2019, or January 1, 2020 through February 29, 2020, as selected by the borrower.</p> <p>The amount forgiven is also reduced to the extent that compensation for any individual making less than \$100,000 per year is reduced by more than 25 percent measured against the most recent full quarter.</p>
<b>Required borrower SBA form(s)</b>	<a href="#">SBA Form 2483</a> (Paycheck Protection Program Application Form)
<b>Required borrower application documentation</b>	<p>Documentation to establish eligibility and validating the number of full-time equivalent employees on payroll as well as the dollar amount of payroll costs.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>Payroll processor records</li> <li>Payroll tax filings</li> <li>Form 1099 Misc.</li> <li>Income and Expense Information from sole proprietorship</li> </ul> <p>Alternate documentation:</p> <ul style="list-style-type: none"> <li>Bank records sufficient to demonstrate the qualifying payroll amount</li> </ul>

<b>Required borrower forgiveness documentation</b>	<p>Documentation of qualified payroll costs paid and current number of full-time equivalent employees</p> <p>Documentation of mortgage interest or covered rent payments paid</p> <p>Documentation of covered utilities paid</p>
<b>Required Certifications by borrower</b>	<p>Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099-MISC.</p> <p>Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.</p> <p>The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable.</p> <p>Not more than 25 percent of loan proceeds may be used for non-payroll costs.</p> <p>During the period beginning on February 15, 2020 and ending on December 31, 2020, the applicant has not and will not receive another loan under this program.</p> <p>Certification that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects.</p> <p>Acknowledgement of understanding that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.</p> <p>Acknowledgement that the lender will confirm the eligible loan amount using tax documents I have submitted.</p> <p>Affirmation that tax documents are identical to those submitted to the Internal Revenue Service.</p> <p>Acknowledgement that the Lender can share the tax information with SBA’s authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.</p>
<b>Result of misuse of funds by borrower</b>	<p>Borrower will be expected to repay any funds misused and subject to additional liability such as charges for fraud. If a shareholder, member or partner used PPP funds for unauthorized purposes, SBA will have recourse against the individual.</p>
<b>SBA Guaranty amount</b>	<p>100% of the loan amount</p>

<b>Interest rate</b>	1.00%
<b>Deferral Period</b>	6 months but interest will accrue during this period
<b>Loan Term</b>	2 years
<b>Prepayment Penalty</b>	None
<b>Personal Liability Requirements</b>	None ; no guarantees
<b>Collateral Requirements</b>	None
<b>Other waived SBA 7(a) requirements</b>	Prepayment penalties, guaranty fees and the annual fee applicable to other 7(a) loans
<b>Signature Requirements</b>	E-signatures and consents can be utilized
<b>LENDER INFORMATION</b>	
<b>Eligibility</b>	<p>Current Preferred and Certified SBA Lenders</p> <p>Any federally insured depository institution or federally insured credit union or Farm Credit System Institution except for FAMC</p> <p>Other depository or non-depository financing providers that originate, maintain or service business loans who meet specific requirements</p>
<b>Delegated Underwriting Authority</b>	<p>Current Preferred and Certified SBA Lenders have delegated underwriting authority effective immediately</p> <p>Federally insured depository institutions, federally insured credit unions and Farm Credit System institutions will have delegated authority by the SBA upon transmission of CARES Act Section 1102 Lender Agreement (SBA Form 3506)</p>
<b>Underwriting Requirements</b>	<p>Confirm receipt of borrower certifications contained in Paycheck Protection Program Application form</p> <p>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</p> <p>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</p>
<b>BSA Requirements</b>	<p>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.</p> <p>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.</p>

	<p>Entities that are not presently subject to the requirements of the BSA should establish an anti-money laundering (AML) compliance program equivalent to that of a comparable federally regulated institution.</p> <p>Such entities will also generally have to identify and report certain suspicious activity to the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).</p>
<b>Application documentation verification requirements</b>	<p>Review of the "Paycheck Protection Application Form."</p> <p>Verify documentation necessary to establish eligibility described in borrower documentation requirements</p>
<b>Required SBA application form(s)</b>	<a href="#">SBA Form 2484</a> Paycheck Protection Program Lender's Application Form
<b>Documentation Requirements for loan forgiveness and hold harmless</b>	<p>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.</p> <p>The Administrator will hold harmless any lender that relies on such borrower documents and attestation from a borrower.</p>
<b>Processing fees paid to lender</b>	<p>Five (5) percent for loans of not more than \$350,000;</p> <p>Three (3) percent for loans of more than \$350,000 and less than \$2,000,000</p> <p>One (1) percent for loans of at least \$2,000,000</p>
<b>Agent fees</b>	<p>Agent fees will be paid by the lender out of the fees the lender receives from SBA. Agents may not collect fees from the borrower or be paid out of the PPP loan proceeds. The total amount that an agent may collect from the lender for assistance in preparing an application for a PPP loan (including referral to the lender) may not exceed:</p> <p>One (1) percent for loans of not more than \$350,000;  0.50 percent for loans of more than \$350,000 and less than \$2 million  0.25 percent for loans of at least \$2 million</p>
<b>Eligibility for secondary market sales</b>	A PPP loan may be sold on the secondary market after the loan is fully disbursed and may be sold at a premium or a discount to par value.
<b>SBA purchases in advance</b>	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. The expected forgiveness amount is

	<p>the amount of loan principal the lender reasonably expects the borrower to expend on payroll costs, covered mortgage interest, covered rent, and covered utility payments during the eight week period after loan disbursement. At least 75 percent of the expected forgiveness amount shall be for payroll costs.</p> <p>To submit a PPP loan for advance purchase, a lender shall submit a report requesting advance purchase with the expected forgiveness amount to the SBA.</p> <p>The Administrator will purchase the expected forgiveness amount of the PPP loan(s) within 15 days of the date on which the Administrator receives a complete report.</p>
<b>OTHER INFORMATION</b>	
<p><b>Link to full guidance 13 CFR Part 120 Business Loan Program Temporary Changes; Paycheck Protection Program</b></p>	<p><a href="https://home.treasury.gov/system/files/136/PPP--IFRN%20FINAL.pdf">https://home.treasury.gov/system/files/136/PPP--IFRN%20FINAL.pdf</a></p>
<p><b>Can these loans be excluded from Legal Lending Limits?</b></p>	<p>Yes because they have the full guaranty of the federal government. Review your primary regulator’s specific guidelines.</p>
<p><b>Further information still expected and promised in guidance</b></p>	<p>Applicability of affiliation rules at 13 CFR 121.103 and 121.301 to PPP loans</p> <p>Additional information on loan forgiveness</p>
<p><b>Additional questions for SBA</b></p>	<p>FOR FURTHER INFORMATION CONTACT: Local SBA Field Offices</p> <p><a href="https://www.sba.gov/tools/local-assistance/districtoffices">https://www.sba.gov/tools/local-assistance/districtoffices</a></p> <p><a href="http://www.sba.gov">www.sba.gov</a></p>
<p><b>What do we still need to know and will be trying to get answered?</b></p>	<p>Specific instructions on how to get approved as an SBA Lender if you aren’t approved, registered and set up.</p> <p>Are there any loan document requirements?</p> <p>Lender certification only requires that neither the authorized lender official nor their spouse or children have a financial interest in the applicant. This appears to make it possible for an insider (director, officer, or principal shareholder) to obtain a loan from their bank.</p> <p>How will processing fees be funded to lenders and when will they fund?</p> <p>Are the collection, liquidation and reporting requirements identical to other 7(a) loans?</p>

<b>POTENTIAL PROBLEMS, RISKS OR PITFALLS</b>	
<b>Potential lender liability</b>	Read the Lender certification on page 3 carefully
<b>Resource availability</b>	Reputational risk associated with inability for current systems to handle huge volume of requests
<b>Credit Risks</b>	What happens if the borrower can't repay in two years? Unsecured Non-recourse Made in troubled and uncertain environment
<b>Unanswered questions</b>	Additional clarification needed in some areas but lenders are expected to start submitting and funding loans beginning tomorrow April 3 <sup>rd</sup> .

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