



April 20, 2020

GUIDELINES FOR PAYCHECK PROTECTION PROGRAM LOAN FORGIVENESS

The following are pertinent excerpts taken directly from SBA-issued guidance on the Paycheck Protection Program (PPP) loan product. This is meant to assist Borrowers in understanding the guidance that has been issued so far (as of April 20, 2020) around loan forgiveness.

These are not the guidelines in total. The links to the full guidelines are provided for each section. The guidelines have outlined that it is the Borrower's responsibility to determine eligible use of proceeds, and to document them accordingly. For this reason, Virginia Community Capital (VCC) is only able to direct the Borrower to those guidelines, which have been issued by the SBA.

More guidelines may be issued, so please monitor the [SBA's website](#) for updates.



April 20, 2020

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Docket No. SBA–2020–0015]

RIN 3245–AH34

Business Loan Program Temporary Changes; Paycheck Protection Program

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule.

https://www.sba.gov/sites/default/files/2020-04/PPP%20Interim%20Final%20Rule_0.pdf

III. 2.

o. Can my PPP loan be forgiven in whole or in part?

Yes. The amount of loan forgiveness can be up to the full principal amount of the loan and any accrued interest. That is, the borrower will not be responsible for any loan payment if the borrower uses all of the loan proceeds for forgivable purposes described below 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. However, not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs. While the Act provides that borrowers are eligible for forgiveness in an amount equal to the sum of payroll costs and

VerDate Sep2014 16:09 Apr 14, 2020 Jkt 250001 PO 00000 Frm 00003 Fmt 4700 Sfmt 4700 E:\FR\FM\15APR1.SGM 15APR1 jbell on DSKJLSW7X2PROD with RULES 20814 Federal Register / Vol. 85, No. 73 / Wednesday, April 15, 2020 / Rules and Regulations 1A representative of the applicant can certify for the business as a whole if the representative is legally authorized to do so. any payments of mortgage interest, rent, and utilities, the Administrator has determined that the non-payroll portion of the forgivable loan amount should be limited to effectuate the core purpose of the statute and ensure finite program resources are devoted primarily to payroll. The Administrator has determined in consultation with the Secretary that 75 percent is an appropriate percentage in light of the Act's overarching focus on keeping workers paid and employed. Further, the Administrator and the Secretary believe that applying this threshold to loan forgiveness is consistent with the structure of the Act, which provides a loan amount 75 percent of which is equivalent to eight weeks of payroll (8 weeks/2.5 months = 56 days/76 days = 74 percent rounded up to 75 percent). Limiting non-payroll costs to 25 percent of the forgiveness amount will align these elements of the program, and will also help to ensure that the finite appropriations available for PPP loan forgiveness are directed toward payroll protection. SBA will issue additional guidance on loan forgiveness.

r. How can PPP loans be used?

The proceeds of a PPP loan are to be used for: i. payroll costs (as defined in the Act and in 2.f.); ii. costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums; iii. mortgage interest payments (but not mortgage prepayments or principal payments); iv. rent payments; v. utility payments; vi. interest payments on any other debt obligations that were incurred

before February 15, 2020; and/or vii. 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. However, 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. While the Act provides that PPP loan proceeds may be used for the purposes listed above and for other allowable uses described in section 7(a) of the Small Business Act (15 U.S.C. 636(a)), the Administrator believes that finite appropriations and the structure of the Act warrant a requirement that borrowers use a substantial portion of the loan proceeds for payroll costs, consistent with Congress' overarching goal of keeping workers paid and employed. As with the similar limitation on the forgiveness amount explained earlier, the Administrator, in consultation with the Secretary, has determined that 75 percent is an appropriate percentage that will align this element of the program with the loan amount, 75 percent of which is equivalent to eight weeks of payroll. This limitation on use of the loan funds will help to ensure that the finite appropriations available for these loans are directed toward payroll protection, as each loan that is issued depletes the appropriation, regardless of whether portions of the loan are later forgiven.

s. What happens if PPP loan funds are misused?

If you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud. If one of your shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.

t. What certifications need to be made?

On the Paycheck Protection Program application, an authorized representative of the applicant must certify in good faith to all of the below:

- i. The 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.
- ii. Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.
- iii. 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 such as for charges of fraud. As explained above, not more than 25 percent of loan proceeds may be used for non-payroll costs.

- iv. Documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight week period following this loan will be provided to the lender.
- v. Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. As explained above, not more than 25 percent of the forgiven amount may be for non-payroll costs.
- vi. 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.
- vii. I further certify 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. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 U.S.C. 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. 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 U.S.C. 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000. VerDate Sep2014 16:09 Apr 14, 2020 Jkt 250001 PO 00000 Frm 00004 Fmt 4700 Sfmt 4700 E:\FR\FM\15APR1.SGM 15APR1 jbell on DSKJLSW7X2PROD with RULES Federal Register / Vol. 85, No. 73 / Wednesday, April 15, 2020 / Rules and Regulations 20815
- viii. I acknowledge that the lender will confirm the eligible loan amount using tax documents I have submitted. I affirm that these tax documents are identical to those submitted to the Internal Revenue Service. I also understand, acknowledge, and agree 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.

III. 3.

c. Can lenders rely on borrower documentation for loan forgiveness?

Yes. 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 Administrator will hold harmless any lender that relies on such borrower documents and attestation from a borrower. The Administrator, in VerDate Sep2014 16:09 Apr 14, 2020 Jkt 250001 PO 00000 Frm 00005 Fmt 4700 Sfmt 4700 E:\FR\FM\15APR1.SGM 15APR1 jbell on DSKJLSW7X2PROD with RULES 20816 Federal Register / Vol. 85, No. 73 / Wednesday, April 15, 2020 / Rules and Regulations consultation with the Secretary, has determined that lender reliance on a borrower's required documents and attestation is necessary and appropriate in light of section 1106(h) of the Act, which prohibits the Administrator from taking an enforcement action or imposing penalties if the lender has received a borrower attestation.



April 20, 2020

SMALL BUSINESS ADMINISTRATION

Docket Number SBA-2020-[]

13 CFR Part 120

RIN []

Business Loan Program Temporary Changes; Paycheck Protection Program – Additional Eligibility Criteria and Requirements for Certain Pledges of Loans

AGENCY: U. S. Small Business Administration.

ACTION: Interim Final Rule.

<https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

III. 1. Individuals with Self-Employment Income who File a Form 1040, Schedule C

d. How can PPP loans be used by individuals with income from self-employment who file a 2019 Form 1040, Schedule C?

The proceeds of a PPP loan are to be used for the following:

- i. Owner compensation replacement, calculated based on 2019 net profit as described in Paragraph 1.b. above.
- ii. Employee payroll costs (as defined in the First PPP Interim Final Rule) for employees whose principal place of residence is in the United States, if you have employees.
- iii. Mortgage interest payments (but not mortgage prepayments or principal payments) on any business mortgage obligation on real or personal property (e.g., the interest on your mortgage for the warehouse you purchased to store business equipment or the interest on an auto loan for a vehicle you use to perform your business), business rent payments (e.g., the warehouse where you store business equipment or the vehicle you use to perform your business), and business utility payments (e.g., the cost of electricity in the warehouse you rent or gas you use driving your business vehicle). You must have claimed or be entitled to claim a deduction for such expenses on your 2019 Form 1040 Schedule C for them to be a permissible use during the eight-week period following the first disbursement of the loan (the “covered period”). For example, if you did not claim or are not entitled to claim utilities expenses on your 2019 Form 1040 Schedule C, you cannot use the proceeds for utilities during the covered period.
- iv. Interest payments on any other debt obligations that were incurred before February 15, 2020 (such amounts are not eligible for PPP loan forgiveness).
- v. Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020 (maturity will be reset to PPP’s maturity of two years). 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.

April 20, 2020

The Administrator, in consultation with the Secretary, determined that it is appropriate to limit self-employed individuals' (who file a Form 1040 Schedule C) use of loan proceeds to those types of allowable uses for which the borrower made expenditures in 2019. The Administrator has determined that this limitation on self-employed individuals who file a Form 1040 Schedule C is consistent with the borrower certification required by the Act; specifically, that the PPP loan is necessary "to support the ongoing operations" of the borrower. The Administrator and the Secretary thus believe that this limitation is consistent with the structure of the Act to maintain existing operations and payroll and not for business expansion. This limitation on the use of PPP loan proceeds will also help to ensure that the finite appropriations available for these loans are directed toward maintaining existing operations and payroll, as each loan that is made depletes the appropriation. Finally, although the Act makes businesses in operation on February 15, 2020 eligible for PPP loans, the Administrator, in consultation with the Secretary, has determined that self-employed individuals will need to rely on their 2019 Form 1040 Schedule C, which provides verifiable documentation on expenses between January 1, 2019 and December 31, 2019. For individuals with income from self-employment from 2019 for which they have filed or will file a 2019 Form 1040 Schedule C, expenses incurred between January 1, 2020 and February 14, 2020 may not be considered because of the lack of verifiable documentation on expenses in this period. SBA will issue additional guidance for those individuals with self-employment income who: (i) were not in operation in 2019 but who were in operation on February 15, 2020, and (ii) will file a Form 1040 Schedule C for 2020.

e. Are there any other restrictions on how I can use PPP loan proceeds?

Yes. 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 (but not for 11 forgiveness purposes), the amount of any refinanced EIDL will be included. The rationale for this 75 percent floor is contained in the First PPP Interim Final Rule.

f. What amounts shall be eligible for forgiveness?

The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered period on:

- i. payroll costs including salary, wages, and tips, up to \$100,000 of annualized pay per employee (for eight weeks, a maximum of \$15,385 per individual), as well as covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums);
- ii. owner compensation replacement, calculated based on 2019 net profit as described in Paragraph 1.b. above, with forgiveness of such amounts limited to eight weeks' worth (8/52) of 2019 net profit, but excluding any qualified sick leave equivalent amount for which a credit is claimed under section 7002 of the Families First Coronavirus Response Act (FFCRA) (Public Law 116-127) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA;

- iii. payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);
- iv. rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments); and 12
- v. utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).

The Administrator, in consultation with the Secretary, has determined that it is appropriate to limit the forgiveness of owner compensation replacement for individuals with self-employment income who file a Schedule C to eight weeks' worth (8/52) of 2019 net profit. This is most consistent with the structure of the Act and its overarching focus on keeping workers paid, and will prevent windfalls that Congress did not intend. Congress determined that the maximum loan amount is based on 2.5 months of the borrower's payroll during the one-year period preceding the loan. Congress also determined that the maximum amount of loan forgiveness is based on the borrower's eligible payments—i.e., the sum of payroll costs and certain overhead expenses— over the eight-week period following the date of loan disbursement. For individuals with self-employment income who file a Schedule C, the Administrator, in consultation with the Secretary, has determined that it is appropriate to limit loan forgiveness to a proportionate eight-week share of 2019 net profit, as reflected in the individual's 2019 Form 1040 Schedule C. This is because many self-employed individuals have few of the overhead expenses that qualify for forgiveness under the Act. For example, many such individuals operate out of either their homes, vehicles, or sheds and thus do not incur qualifying mortgage interest, rent, or utility payments. As a result, most of their receipts will constitute net income. Allowing such a self-employed individual to treat the full amount of a PPP loan as net income would result in a windfall. The entire amount of the PPP loan (a maximum of 2.5 times monthly 13 payroll costs) would be forgiven even though Congress designed this program to limit forgiveness to certain eligible expenses incurred in an eight-week covered period. Limiting forgiveness to eight weeks of net profit from the owner's 2019 Form 1040 Schedule C is consistent with the structure of the Act, which provides for loan forgiveness based on eight weeks of expenditures. This limitation will also help to ensure that the finite appropriations are directed toward payroll protection, consistent with the Act's central objective. Finally, 75 percent of the amount forgiven must be attributable to payroll costs for the reasons specified in the First PPP Interim Final Rule.

g. What documentation will I be required to submit to my lender with my request for loan forgiveness?

In addition to the borrower certification required by Section 1106(e)(3) of the Act, to substantiate your request for loan forgiveness, if you have employees, you should submit Form 941 and state quarterly wage unemployment insurance tax reporting forms or equivalent payroll processor records that best correspond to the covered period (with evidence of any retirement and health insurance contributions). Whether or not you have employees, you must submit evidence of business rent, business mortgage interest payments on real or personal property, or business utility payments during the covered period if you used loan proceeds for those purposes. The 2019 Form 1040 Schedule C that was provided at the time of the PPP loan application must be used to determine the amount of net profit allocated to the owner for the eight-week covered period. The Administrator, in consultation with the Secretary, determined that for purposes of loan forgiveness it is



April 20, 2020

appropriate to require self-employed 14 individuals to rely on the 2019 Form 1040 Schedule C to determine the amount of net profit allocated to the owner during the covered period for the reasons described in Paragraph 1.d. above.

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April 20, 2020

Paycheck Protection Program Loans

Frequently Asked Questions (FAQs)

As of April 17, 2020

https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf?utm_campaign=NEWSBYTES-20200414&utm_medium=email&utm_source=Eloqua

Do PPP loans cover paid sick leave?

Yes. PPP loans covers payroll costs, including costs for employee vacation, parental, family, medical, and sick leave. However, the CARES Act excludes qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116–127). Learn more about the Paid Sick Leave Refundable Credit [here](#).

The amount of forgiveness of a PPP loan depends on the borrower's payroll costs over an eight-week period; when does that eight-week period begin?

The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.