

SBA Issues Guidance and Instructions on Paycheck Protection Program Loans

The SBA just issued much-awaited guidance including the application and instructions to apply for loan forgiveness of their Paycheck Protection Program (PPP) loans. The loan application provides detailed instructions for borrowers and the calculation of PPP loan forgiveness.

Borrowers of PPP funds must request forgiveness of the PPP loan proceeds by filing SBA Form 3508, Paycheck Protection Loan Forgiveness Application. There are four parts to this application: (1) the PPP Loan Forgiveness Calculation Form; (2) PPP Schedule A; (3) the PPP Schedule A Worksheet; and (4) an (optional) PPP Borrower Demographic Information Form. Borrowers are required to submit (1) and (2) to their Lender. [Download the application here.](#)

Borrowers with loans over \$2 million are required to check a box on the application indicating that their loan was in excess of \$2 million. The Treasury Department has indicated that it will audit all loans in excess of that threshold. All borrowers, on the initial application, were required to certify that the loan request was necessary to support the ongoing operations of the applicant. The SBA, in consultation with the Treasury Department, previously provided a safe harbor stating that PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification in good faith.

The SBA has provided an Alternative Payroll Covered Period: this will allow borrowers to elect to calculate eligible payroll costs using the eight week period that begins on the first day of their first pay period following the disbursement of the PPP loan proceeds. Borrowers who opt for this alternative payroll covered period must still use the standard eight week covered period for other costs. The forms and instructions include several other measures to reduce compliance burdens and simplify the process for borrowers, including:

- Flexibility to include eligible payroll and non-payroll expenses paid or incurred during the eight-week period after receiving their PPP loan
- Step-by-step instructions on how to perform the calculations required by the CARES Act to confirm eligibility for loan forgiveness
- Implementation of statutory exemptions from loan forgiveness reduction based on rehiring by June 30
- Addition of a new exemption from the loan forgiveness reduction for borrowers who have made a good-faith, written offer to rehire workers that was declined

A list of documents that each borrower must submit with its PPP loan forgiveness application was also provided.

Please let us know if you have any questions or if we can assist you in any way.

May 18, 2020