

The Paycheck Protection Program (the “PPP”), a portion of the Coronavirus Aid, Relief, and Economic Securities Act (the “CARES Act”), sets aside \$349 billion in forgivable loans to small and medium businesses to retain employees and cover certain other expenses during the COVID 19 pandemic. Loans under the PPP do not require any collateral or a personal guarantee, which makes the PPP a valuable opportunity for eligible businesses. The U.S. Department of Treasury and the Small Business Administration (the “SBA”) recently released the PPP Borrower Application Form, an interim final rule, and related information to provide guidance into what is required to apply for the PPP loans.

Below is a checklist that describes information that lenders may require to apply for a PPP loan. While this checklist is intended to cover the spectrum of documents and information that a lender may request, please note that each lender will have specific requirements that may differ from those listed below. Please contact your relationship attorney if you need assistance finding a qualified SBA lender or have questions regarding any requests made by your lender.

Anyone considering applying for a PPP loan should reach out to a qualified lender and begin gathering these documents *immediately* to ensure the timely processing of the application while PPP funds remain available. This checklist assumes you are eligible for a PPP loan; for further information regarding eligibility, please see [CARES Act: SBA Lending Program](#) dated March 30, 2020. Please contact your relationship attorney for questions regarding eligibility.

## INITIAL DOCUMENT CHECKLIST FOR BORROWERS

### I. BORROWER INFORMATION.

- Borrower legal entity name and any DBA or Tradename.
- Taxpayer Identification Number of borrower.
- Prior year tax returns, including 2018 and 2019.
- Organizational documents of borrower.
- Eligible business entity type of borrower.

**II. OWNERSHIP INFORMATION.** The information below is required for each owner of the borrower with greater than 20% stake in the borrower entity. In the event that no owner has a greater than 20% stake, the lender may request this information of one or more owners regardless of percent ownership.

- Name of owner.
- Title.
- Ownership Percentage.
- Taxpayer Identification Number (EIN or SSN).
- Address.
- Organizational documents of owner.

**III. EMPLOYEE INFORMATION.** Each borrower must calculate its average monthly payroll (the “AMP”), which is used to determine the maximum loan amount. The AMP calculation is based on whether the borrower is a seasonal or non-seasonal employer.

For non-seasonal employers, the AMP is equal to the monthly average of all Included Payroll Costs for all employees during either the (i) 2019 calendar year or (ii) the twelve (12) month period ending with the most recent payroll (as selected by the borrower). Borrowers should calculate its AMP both ways to determine which is more advantageous. For businesses not formed or in operation during 2019, the AMP is equal to the monthly average of all Included Payroll Costs incurred in January and February 2020.

For seasonal employers, the AMP is equal to the monthly average of all Included Payroll Costs for all employees for the 12-week period beginning February 15, 2019, or March 1, 2019 (as selected by the borrower) through June 30, 2019. Again, borrowers should calculate its AMP both ways to determine which is more advantageous.

**A. Included Payroll Costs.** Lenders will require documentation to evidence the items below to verify borrower's Included Payroll Costs. Specific documents will vary based on each applicant's available records and lender requirements.

**Businesses:**

- Salary, wages, commission, or similar compensation (subject to an annual cap of \$100,000.00 for each employee<sup>1</sup>)
- Additional wages paid to tipped employees (note that some lenders are requesting the names of tipped employees)
- Vacation, parental, family, medical, or sick leave costs.
- Allowances for separation or dismissal.
- Payments required for the provisions of group health care benefits, including insurance premiums.
- Payment of any retirement benefits.
- State and local taxes assessed on compensation.

**Sole Proprietors, Independent Contractors, and Self-Employed individuals:**

- All wages, commissions, incomes, net earnings from self-employment, or similar compensation (subject to the annual cap of \$100,000.00).

**Suggested Documents:** Several lenders are accepting the following items as sufficient evidence of borrower's Included Payroll Costs, but be sure to coordinate with your lender for specific requirements.

- Payroll tax reports filed with the IRS for 2019 and first quarter 2020.
- Any state payroll tax reports filed for 2019 and first quarter 2020.
- Payroll reports that include vacation, sick time, and other paid time off for 2019 and 2020.
- Monthly invoices and proof of payment to insurance providers to evidence health insurance premiums paid by the borrower for employees.
- Payment receipts showing sum of all funds paid to employee retirement plans by the borrower.

**B. Full-Time Equivalent Employees.**

- Documentation verifying the number of full-time equivalent employees on payroll.

**C. Excluded Payroll Costs.** The following are not included in the borrower's AMP. Borrowers should not need to present documentation of the following:

- Annual compensation of an individual employee in excess of \$100,000.00
- Payroll taxes, railroad retirement taxes, and income taxes.
- Any compensation for any employee whose principal place of residence is outside of the United States of America.
- Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act, or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act.

**IV. MORTGAGE INTEREST.** Loan proceeds may be used to cover interest payments on most business mortgage obligations incurred prior to February 15, 2020. It is up to the borrower whether to use loan proceeds on mortgage interest.

- Documents evidencing interest paid in 2019 and 2020 on the mortgage.
- Documentation evidencing anticipated interest payments to be due on the mortgage for the next three (3) months, if available.

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<sup>1</sup> Note that only cash compensation in excess of the cap is excluded. This exclusion does not apply to non-cash benefits, including (i) employer contributions to defined-benefit or defined-contribution retirement plans; (ii) employer contributions to defined-benefit or defined-contribution retirement plans; and (iii) payment of state and local taxes assessed on compensation of employees.

**V. RENT.** Loan proceeds may be used to cover rent payments under lease agreements entered into before February 15, 2020. It is up to the borrower whether to use loan proceeds on rent payments.

- Copy of any lease agreements for which loan proceeds are to be applied.
- Proof of rent paid for 2019 and 2020.

**VI. UTILITIES.** Loan proceeds may be used to cover utility payments for utilities for which service began prior to February 15, 2020. It is up to the borrower whether to use loan proceeds on utility payments.

Bills and proof of payment for 2019 and 2020 for:

- Electricity
- Water
- Gas
- Telephone
- Internet
- Other: \_\_\_\_\_

**VII. GOOD FAITH CERTIFICATION.** Each borrower must certify in good faith each of the following:

- Borrower was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes.
- Current economic uncertainty makes this loan request necessary to support the ongoing operations of the borrower.
- The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments.
- The borrower will provide to the lender documentation verifying the number of full-time equivalent employees and the dollar amounts of payroll costs, covered mortgage interest, rent, and utility payments for the eight (8) weeks after getting the loan.
- 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 the PPP.

**Documentation of Certified Statements.** Some lenders may require evidence of the certified statements above, such as:

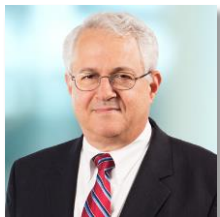
- Details on the COVID-19 related business and industry interruption.
- Management actions taken in response to the COVID-19 interruption.
- Impact time horizon of the COVID-19 interruption.

**VIII. AFTER OBTAINING A PPP LOAN.** Borrowers are required to keep detailed records of how the loan proceeds are used for ***eight (8) weeks after the PPP loan is received*** in order to be eligible for loan forgiveness. The SBA will likely release future guidance on what documents will be required, so be sure to coordinate with your lender during the eight (8) weeks following receipt of loan proceeds. The CARES Act currently indicates that, at minimum, each of the following should be kept by borrower during the course of the SBA loan:

- Verification of the number of full time equivalent employees on payroll.
- Pay rates for all employees.
- Dollar amounts of payroll costs.
- Mortgage invoices, proof of payment, or other verification of covered mortgage interest payments.
- Rent invoices, proof of payment, or other verification of covered rent payments.
- Bills, proof of payment, or other verification of covered utility payments.

Applying for a loan under the PPP can be intimidating, but it is important that interested borrowers begin gathering the documents described above. In addition, funds for PPP loans are limited, so it is imperative to find a SBA qualified lender immediately to begin the application process. Please contact your relationship attorney with any questions regarding the application process, eligibility, or for assistance finding a qualified lender.

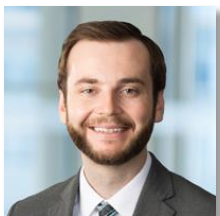
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