



SBA Updates Requirements for New PPP Loans and Loan Forgiveness

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On June 11, June 12, June 17, and June 19, 2020, the Small Business Administration issued a series of revisions to the Interim Final Rules associated with the Paycheck Protection Program ("PPP"). These revisions are consistent with the Paycheck Protection Program Flexibility Act, which was signed into law on June 5, 2020 and which modified the original PPP rules in the CARES Act. <http://bhlawpllc.com/publication/loosened-restrictions-on-use-and-forgiveness-of-ppp-loans-loans-still-available/>

The Amended Interim Final Rules reflect the Flexibility Act's provision including:

- Extending the loan forgiveness covered period from 8 weeks to 24 weeks and the end date of the covered period for a PPP loan from June 30, 2020 to December 31, 2020 and allowing borrowers who received loans prior to June 5 to elect a 24-week covered period.
- Setting forth a five-year term for any unforgiven portion of PPP loans and allowing a borrower and lender on a PPP loan made prior to June 5, 2020 to retain the two-year repayment period allowed prior to the Flexibility Act, or mutually agree to extend the repayment term to five years. SBA diverged from the Flexibility Act which allowed up to ten years for repayment.
- Extending the payment deferral period so that a PPP recipient who submits to its lender a loan forgiveness application within 10 months after the end of the loan forgiveness covered period, will not have to make any payments of principal or interest on the unforgiven portion of its loan before the date on which SBA remits the loan forgiveness amount to the lender (or notifies the lender that no loan forgiveness is allowed).
- Confirming that for full forgiveness at least 60% of a PPP loan must be spent on eligible payroll costs.
- Clarifying that partial loan forgiveness is available and will be proportional based on the requirement that 60% of the forgiveness amount is attributable to eligible payroll costs.
- Stating that forgivable payroll costs as to employees include salary, wages, and tips, up to \$100,000 of annualized pay per employee (for 24 weeks, a maximum of \$46,154 per individual), as well as covered benefits for employees (but not owners).
- Establishing that forgivable payroll costs for owners include eight weeks' worth (8/52) of 2019 net profit (up to \$15,385) for an eight-week covered period or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833) for a 24-week covered period.

The SBA also reduced the timeframe for certain felony convictions that disqualify applicants to reflect Congressional intent to provide relief to small businesses. As a result, the First Interim Final Rule has been revised to state that an application will not be approved where an owner of 20 percent or more of the equity of a PPP applicant "has been convicted of a felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance within the last five years or any other felony within the last year."

As PPP recipients begin to apply for loan forgiveness, it is critical to prepare for oversight of spending and other loan compliance requirements. [<http://bhlawpllc.com/publication/heightened-scrutiny-for-ppp-loans-and-may-7-safe-harbor-to-return-ppp-funds/>] Our PPP audit team is available for consultation on forgiveness and audit defense. Our attorneys are available to answer your questions about the PPP and other COVID-19 relief programs.



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