

Update on SBA Paycheck Protection Program Guidance

As of April 3, 2020



On Thursday, April 2nd, the SBA issued an interim final rule providing additional guidelines and requirements for the Paycheck Protection Program ("PPP") implemented to aid businesses affected by the COVID-19 crisis. Many of you have contacted our team regarding the application process, and have since submitted your preliminary application through our partner, Fountainhead Commercial Capital. If you have not done so, please use the [APPLY FOR THE PPP](#) link and information at the bottom of this email.

With the release of this guidance, approved lenders are able to begin processing applications today. We understand your urgency, and appreciate your patience as they begin working their way through the queue. Additional information is likely forthcoming, along with an extraordinary influx of applications. In the interim, we ask that you begin gathering the required documentation and familiarize yourself with some of the most important details summarized below.

Please utilize this [QUICK CLICK](#) summary of the interim final rule.

- Who can apply?
- When can I apply?
- Where can I apply?
- What are the loan terms?
- Can my PPP loan be forgiven in whole or in part?
- How can PPP loans be used?
- What do lenders have to do in terms of loan underwriting?
- Can lenders rely on borrower documentation for loan forgiveness?
- What forms does borrower need and how is application submitted?
- Can I use e-signatures or e-consents if a borrower has multiple owners?
- Do independent contractors count as employees for purposes of PPP loan calculations?
- Do independent contractors count as employees for purposes of PPP loan forgiveness?
- Are tax exempt organizations eligible for PPP?
- Are sole proprietor and independent contractors eligible?
- How do I calculate the maximum amount I can borrow?
- What qualifies as "payroll costs?"
- Is there anything expressly excluded from the definition of payroll costs?
- Do lenders have to apply the "credit elsewhere test"?
- Can PPP loans be sold into the secondary market?

Who can apply?

All businesses – including nonprofits, veterans organizations, Tribal business concerns, sole Proprietorships, self-employed individuals, and independent contractors – with 500 or fewer employees can apply. Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries.

When can I apply?

Beginning today, April 3, 2020, small businesses and sole proprietorships can apply.
Beginning April 10, 2020, independent contractors and self-employed individuals can apply.

Where can I apply?

Parkside clients should apply through our approved SBA lender partner, **Fountainhead Commercial Capital**, via **the link below**. When completing the application, please indicate:

You **ARE** working with a FastTrack partner.

Referral Partner Name: Gay Schwer

Referral Partner Email: sba@pfbt.com

Once you complete the quick Fountainhead application (Step 1 – Click ‘Apply for the PPP’ below), you will be in the queue for processing. You will receive email confirmation of receipt, along with additional details about the loan process and required documentation (Step 2). Please forward the email confirmation receipt to your Parkside commercial banking officer. You will be provided access to a secure portal to upload required documentation including the SBA application (Step 3). Please forward a copy of the completed SBA Application to your Parkside commercial banking officer. Once these documents are submitted in good order and received by a processor, it is Fountainhead’s goal to approve and fund within a few days (Step 4). Parkside will serve as a resource to answer questions and ensure your application is processed correctly and efficiently.

APPLY FOR THE PPP

What are the loan terms?

All loan terms will be the same for every borrower.

Interest Rate: 1%

Note Maturity: 2 years

No eligible borrower may receive more than one PPP loan.

Payroll costs are capped at \$100,000 on an annualized basis for each employee. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.

Loan payments will be deferred for 6 months. Interest will continue to accrue on PPP loans during this six-month deferment.

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 in the rule and employee and compensation levels levels are maintained.

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.

What do lenders have to do in terms of loan underwriting?

- i. Confirm receipt of borrower certifications contained in Paycheck Protection Program Application form issued by the Administration;
- ii. 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;
- iii. 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; and
- iv. Follow applicable BSA requirements: I. 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. PPP loans for existing customers will not require re-verification under applicable BSA requirements, unless otherwise indicated by the institution's risk-based approach to BSA compliance.

Each lender's underwriting obligation under the PPP is limited to the items above and reviewing the "Paycheck Protection Application Form." Borrowers must submit such documentation as is necessary to establish eligibility such as payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship. For borrowers that do not have any such documentation, the borrower must provide other supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount.



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.**

What forms does borrower need and how is application submitted?

The applicant must submit **SBA Form 2483 Paycheck Protection Program Application Form** and payroll documentation. **The lender must submit SBA Form 2484 (Paycheck Protection Program Lender's Application for 7(a) Loan Guaranty) electronically in accordance with program requirements and maintain the forms and supporting documentation in its files.**

Can I use e-signatures or e-consents if a borrower has multiple owners?

Yes, e-signature or e-consents can be used regardless of the number of owners.

Do independent contractors count as employees for purposes of PPP loan calculations or loan forgiveness?

No, independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan calculation.

Do independent contractors count as employees for purposes of PPP loan forgiveness?

No, independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan forgiveness.

Are tax exempt organizations eligible for PPP?

A tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC) is eligible.

Are sole proprietor and independent contractors eligible?

You are also eligible for a PPP loan if you are an individual who operates under a sole proprietorship or as an independent contractor or eligible self-employed individual, you were in operation on February 15, 2020. You must also submit such documentation as is necessary to establish eligibility such as payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship. For borrowers that do not have any such documentation, the borrower must provide other supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount.

How do I calculate the maximum amount I can borrow?

The following methodology, which is one of the methodologies contained in the Act, will be most useful for many applicants.

- Step 1: Aggregate payroll costs (defined in detail below in f.) from the last twelve months for employees whose principal place of residence is the United States.
- Step 2: Subtract any compensation paid to an employee in excess of an annual salary of \$100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of \$100,000 per year.
- Step 3: Calculate average monthly payroll costs (divide the amount from Step 2 by 12).
- Step 4: Multiply the average monthly payroll costs from Step 3 by 2.5.
- Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020, less the amount of any “advance” under an EIDL COVID-19 loan (because it does not have to be repaid).

What qualifies as “payroll costs?”

Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation.

Is there anything expressly excluded from the definition of payroll costs?

Yes. The Act expressly excludes the following:

- i. Any compensation of an employee whose principal place of residence is outside of the United States;
- ii. The compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary;
- iii. Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee’s and employer’s share of FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes, and income taxes required to be withheld from employees; and
- iv. 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).

Do lenders have to apply the “credit elsewhere test”?

No. When evaluating an applicant’s eligibility lenders will not be required to apply the “credit elsewhere test.”



Can PPP loans be sold into the secondary market?

Yes. A PPP loan may be sold on the secondary market after the loan is fully disbursed.

For additional information, please review the [US Treasury Borrower Information Sheet](#) or visit the [SBA PPP](#) website.