



## Paycheck Protection Program Additional Guidance

As of April 6, 2020, the Treasury has provided additional guidance for the Paycheck Protection Program (“PPP”). While we are sharing this information with you as it becomes available to us, we point out that the Lending Bank is responsible for following these guidelines and their forms and instructions have varied between lenders and the guidance that the Treasury is now releasing. The Lending Bank is responsible for performing a good faith review of the supporting documentation and working with the borrow to correct any errors on the application. As such, we ask that if you already submitted your application to the SBA approved lender, and find the below information to contradict your application, that you contact your banker to attempt to resolve the errors and changes. Treasury is requesting that the lenders work with the borrowers to resolve these changes.

Below are some highlights from the additional FAQs:

- It would seem that borrowers can qualify for the PPP with more than 500 employees assuming they meet the qualifications of SBA’s definition of a Small Business Concern which can vary by industry. In addition, larger businesses can qualify if they pass the SBA’s alternative size standard as of March 27, 2020 which means they 1) have a maximum tangible net worth of not more than \$15 million, 2) the average net income after federal taxes excluding carryover losses for the two fiscal years before the date of the application is not more than \$5 million dollars.
- Payroll costs limited to \$100,000 has been clarified to be \$100,000 annually including only cash compensation, and not including non-cash benefits such as employer contributions to a defined benefit or defined contribution retirement plan, and payments for the provision of employee benefits consisting of group health care coverage including insurance premiums.
- The SBA recognizes eligible borrowers may use Professional Employer Organizations (PEO) to process payroll and those payrolls, while reported under someone else’s employer identification number (PEO company) are still eligible for payroll inclusion on the PPP computations and forgiveness.
- Borrowers can use the aggregate payroll costs using data from the previous 12 months or calendar year 2019.
- Repeating again from last Q&A in the interim rules, independent contractor costs are NOT includable in the application for defined payroll.
- In determining payroll costs includable in the basis for determining the loan, one should not include federal tax imposed on employees or employer’s wages for federal unemployment insurance and should not reduce the gross payroll for federal withholding. Also, borrowers should not include any of the employers share of FICA or Medicare. To be clear, the Treasury is saying the gross payroll should be used.

Below is the link for the additional FAQs released.

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

We also point out that if your business is unable to take advantage of the SBA 7A PPP program as discussed above, that the SBA also has available – Economic Injury Disaster Loans which may be helpful.

You can apply for an EIDL loan with the SBA and get a \$10,000 advance in around 3 days. The \$10,000 is a grant. There is no obligation to repay the grant. If you do not get approved for the EIDL, you can keep the \$10,000. If you apply for an EIDL and PPP, the \$10,000 reduces the loan forgiveness amount. A loan up to \$200,000 is approved without a personal guarantee. Borrowers do not have to prove they cannot get credit elsewhere. Loans are limited to \$2 million dollars and rates of 3.75%; and have up to a 30-year term. Payments due on the loan are deferred for one year and no collateral is required if loans are under \$25,000.

As always, SKP is here for you during these difficult times, to assist you in taking advantage of any programs that will help your businesses. Please feel free to contact us with any questions.