

New Guidance Issued on PPP Loans

New guidance (the “Interim Final Rule”) was posted to the Treasury website around midnight last night.

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

- 1099s are NOT included in the payroll costs borrowing base, as independent contractors have the ability to apply for their own PPP loan.
- Interest rate changed from 0.50% to 1%.
- PPP loans are first-come, first-served.
- The date range for the payroll costs borrowing base is inconsistent:
 - Page 8 re calculation of maximum borrowing amount reads “from the last twelve months”;
 - Page 21 re what lenders have to do in terms of underwriting reads “for the preceding calendar year”.
 - You should follow whichever date range your lender requests.
- You should include the payroll report covering February 15, 2020 with your information to upload to your lender. One of the loan underwriting requirements is that the lender confirms receipt of information demonstrating that the borrower had employees for whom the borrower paid salaries and payroll taxes on or around February 15, 2020.
- “Payroll costs” excludes “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.”
- As we believed previously, the guidance confirms that the amount of loan forgiveness can be up to the full principal amount of the loan and any accrued interest, so the borrower will not be responsible for any loan payment if the borrower uses all of the loan proceeds for forgivable purposes and employee and compensation levels are maintained.
- There are two application forms available: (1) SBA Form 2483 for the borrower (this is the form published on Tuesday), and (2) SBA Form 2484 for the lender to complete, which includes essentially the same information as the borrower form. Both forms are available through the link above.
- Indicates that the SBA will issue additional guidance on loan forgiveness.

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