Small Business Administration & Treasury issue new guidance for third-round PPP

The new guidance for the third-round Paycheck Protection Program (PPP), which includes two interim final rules (IFRs) that will take effect immediately, was issued last Wednesday night by the U.S. Small Business Administration (SBA) and Treasury.

**The two new interim final rules (IFR’s):**

1. The **“Business Loan Program Temporary Changes; Paycheck Protection Program as Amended by Economic Aid Act”** IFR which announced the implementation of section 1102 and 1106 of the CARES Act (Coronavirus, Aid, Relief, and Economic Security Act). Section 1102 temporarily adds the new PPP to the SBA’s 7(a) Loan Program. Section 1106 provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the PPP.
2. The **“Business Loan Program Temporary Changes; Paycheck Protection Program Second Draw Loans”** IFR which announced the implementation of section 311 of the Economic Aid Act. Section 311 introduces the guidelines for the new PPP loans to businesses that previously received a PPP loan.

The SBA also released the “Guidance on Accessing Capital for Minority, Underserved, Veteran and Women-Owned Business Concerns” which commits the SBA to only accept applications from community financial institutions that serve minority-owned and women-owned businesses for the first two days of the application window.

The new PPP, which has $284.5 billion available in forgivable loans ($35 billion of which is included for first-time loans) will re-open this week. Community financial institutions will be allowed to make first-draw PPP loans starting Jan. 11 and second-draw PPP loans starting Jan 13. The PPP will then open to all participating lenders and will remain open through March 31.

The new PPP was issued with many of the same parameters as the first PPP, but there are a few differences.

Businesses that had already received a PPP loan are eligible to borrow a second-draw PPP loan of up to $2 million, contingent upon them having:

* 300 or fewer employees
* Spent, or will spend, the full amount of the first PPP loan on eligible expenses on or before the expected date for the disbursement of the second PPP loan
* Experienced a revenue reduction of 25% or more in 2020 from 2019

PPP loan applicants must submit the proper documentation to prove eligibility and determine the qualifying payroll amount. Proper documentation may include:

* Payroll Records
* Payroll tax filings
* Form 1099-MISC, *Miscellaneous Income*
* Form 1040
* Schedule C, *Profit or Loss from Business*
* Schedule F, *Profit or Loss from Farming*
* Income & Expenses from a sole proprietorship
* Bank records

Publicly traded companies are not eligible for PPP loans.

**Forgiveness**

PPP loans can be forgiven as long as the funds were used and will continue to be used on eligible costs. Eligible costs for the first round of the PPP included payroll, rent, covered mortgage interest, and utilities. Eligible costs for the revised PPP will also include personal protective equipment costs, property damage costs, essential supplier expenses, and other operating expenses.

Full forgiveness will be given to businesses that receive a PPP loan of $150,000 or less provided the businesses:

* Sign and submit a certification (no longer than one page in length)
* Include a description of the number of employees they were able to retain due to the loan
* The estimated total amount of the loan spent on payroll costs
* The total amount of the loan

The SBA is required to release a simplified application form by Jan. 20. It is recommended borrowers keep relevant records as the SBA may review and audit the loans for the next three to four years.