

## **PAYCHECK PROTECTION PROGRAM**

**Covered Loans:** A loan made under the Paycheck Protection Program during the Covered Period.

**Covered Period:** February 15, 2020 to June 30, 2020.

**Eligible Recipient:** An individual or entity that is eligible for a Covered Loan based on the criteria below.

**Eligible Parties:** Small business concerns, business concerns, non-profit concerns, veteran's organization, and Tribal concerns with less than 500 employees unless SBA size standards allow greater number of employees. Also, individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible. Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a North American Industry Classification System code beginning with 72 at the time of disbursement shall be eligible. Affiliation rules waived during the Covered Period for business concerns with less than 500 employees, business concerns that operate as a franchisee, and any business concern that receives financial assistance from a small business investment company (SBIC). Non-profits and veterans' organizations will be subject to affiliation rules.

**Maximum Loan Amount:** Lesser of: (I) \$10,000,000 or (II) the sum of multiplying:

(aa) the product obtained by multiplying:

(AA) the average total monthly payments by an applicant for Payroll Costs (defined below) incurred during the 1-year period before the date on which the loan is made (for seasonal employers the average total monthly payments for payroll shall be for the 12-week period beginning February 15, 2019, or at the election of the eligible recipient, March 1, 2019, and ending June 30, 2019) by

(BB) 2.5,

plus

(bb) the outstanding amount of a loan under subsection 15 U.S.C. 636(b)(2)) (disaster relief loans) that was made during the period beginning on January 31, 2020

and ending on the date on which Covered Loans are made available to be refinanced under the Covered Loan. There are also rules for calculating loan amounts for businesses not in business from February 15, 2019 through June 30, 2019.

“Payroll Costs” means (aa) the sum of payments of any compensation with respect to employees that is a (AA) salary, wage, commission, or similar compensation; (BB) payment of cash tip or equivalent; (CC) payment for vacation, parental, family, medical, or sick leave; (DD) allowance for dismissal or separation; (EE) payment required for the provisions of group health care benefits, including insurance premiums; (FF) payment of any retirement benefit; or (GG) payment of State or local tax assessed on the compensation of employees; and (bb) the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in 1 year, as prorated for the Covered Period; and (II) shall not include (aa) the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the Covered Period; (bb) taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code of 1986 during the Covered Period; (cc) any compensation of an employee whose principal place of residence is outside of the United States; (dd) qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116–127); or (ee) qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act (Public Law 116–127).

Loan Forgiveness: A recipient of a Covered Loan shall be eligible for forgiveness of indebtedness on a Covered Loan in an amount equal to the sum of the following costs incurred and payments made during the Covered Period: (1) Payroll Costs; (2) any payment of interest on any Covered Mortgage Obligation (which shall not include any prepayment of or payment of principal on a Covered Mortgage Obligation); (3) any payment on any Covered Rent Obligation, (4) any Covered Utility Payment. The SBA will reimburse lenders not later than 90 days after the date on which the amount of forgiveness is determined, an amount equal to the amount of forgiveness, plus any interest accrued through the date of payment. “Covered Mortgage Obligation means any indebtedness or debt instrument incurred in the ordinary course of business that (A) is a liability of the borrower; (B) is a mortgage on real or personal property; and (C) was incurred before February 15, 2020. “Covered Rent Obligation” means rent obligated under a leasing agreement in force before February 15, 2020. “Covered Utility Payment” means payment for

a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020. The amount of loan forgiveness shall not exceed the principal amount of the financing made available under the Covered Loan

Reductions to Loan Forgiveness-Based on Number of Employees: The amount of loan forgiveness shall be reduced but not increased, by multiplying the amount described above by the quotient obtained by dividing (i) the average number of full-time equivalent employees per month employed by the eligible recipient during the Covered Period; by (ii)(I) at the election of the borrower (aa) the average number of full time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019; or (bb) the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on January 1, 2020 and ending on February 29, 2020; or (II) in the case of an eligible recipient that is seasonal employer, as determined by the SBA, the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019. The average number of full-time equivalent employees shall be determined by calculating the average number of full-time equivalent employees for each pay period falling within a month.

Further Reductions to Loan Forgiveness-Based on Salary: The amount of loan forgiveness shall be reduced by the amount of any reduction in total salary or wages of any employee described in the next sentence during the Covered Period that is in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the Covered Period. An employee referenced above is any employee who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000.

Exemptions for Re-Hires: The amount of loan forgiveness shall be determined without regard to a reduction in the number of full-time equivalent employees of an eligible recipient or a reduction in the salary of or more employees of the eligible recipient, as applicable, during the period beginning on February 15, 2020 and ending on the date that is 30 days after the date of enactment of the CARES Act (i) in which (I) during the period beginning on February 15, 2020 and ending on the date that is 30 days after the date of enactment of the CARES Act, there is a reduction, as compared to February 15, 2020, in the number of full-time equivalent

employees of an eligible recipient; and (II) not later than June 30, 2020, the eligible employer has eliminated the reduction in the number of full-time equivalent employees; (ii) in which (I) during the period beginning on February 15, 2020 and ending on the date that is 30 days after the date of enactment of the CARES Act, there is a reduction, as compared to February 15, 2020, in the salary or wages of 1 or more employees of the eligible recipient; and (II) not later than June 30, 2020, the eligible employer has eliminated the reduction in the salary or wages of such employees; or (iii) in which the events described in clause (i) and (ii) occur.

Loan Forgiveness and Tipped Employees: Eligible recipients may receive forgiveness for additional wages paid to tipped employees.

Application for Forgiveness: To receive forgiveness on the Covered Loan, the bill provides for the application and supporting documentation that a borrower must submit to the lender making the Covered Loan. Within 60 days of receiving the application, the lender shall issue a decision on the application.

Taxability of Loan Forgiveness: Any amount which would be normally be includible in gross income of the eligible recipient by reason of forgiveness shall be excluded from gross income.

Interest Rate Requirements: A Covered Loan shall bear an interest rate not to exceed 4 percent.

Hold Harmless for Lenders: If a lender has received the required documentation from an eligible recipient attesting that the eligible recipient has accurately verified the payments for payroll costs, payments on Covered Mortgage Obligations, payments on Covered Lease Obligations, or Covered Utility Payments during the Covered Period, a lender will be held harmless by the SBA for loan amounts forgiven.

Eligible Uses of Loan Proceeds: Payroll costs; costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums; employee salaries, commissions, or similar compensations; payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation); rent (including rent under a lease agreement); utilities; and interest on any other debt obligations that were incurred before the Covered Period. A loan made under subsection 15 U.S.C. 636(b)(2)) (disaster relief loans) during the period beginning on January 31,

2020 and ending on the date on which Covered Loans are made available may be refinanced as part of a Covered Loan.

Credit Elsewhere Test: Waived.

Personal Guarantees: Waived.

Nonrecourse: No recourse against any individual shareholder, member, or partner except to the extent that such shareholder, member, or partner uses the Covered Loan proceeds for unauthorized purpose.

Collateral: Waived.

Prepayment Penalty: Waived.

Required Certifications: A borrower will need to make a good faith certification that (1) that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient; (2) acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments; (3) that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a Covered Loan; and (4) during the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a Covered Loan.

Guarantee Fees: SBA and Borrower guarantee fees waived.

Reimbursement of Processing Fee: For lending institutions processing the loan, the SBA will reimbursement processing costs based on the balance of the financing outstanding at the time of disbursement of the Covered Loan, of (1) 5 percent for loans of not more than \$350,000; (2) 3 percent for loans of more than \$350,000 and less than \$2,000,000; and (3) 1 percent for loans of not less than \$2,000,000. Agents assisting a loan recipient can charge a fee not to exceed limits established by the SBA.

Maturity: If balance after forgiveness, maximum maturity of 10 years from the date on which the borrower applies for loan forgiveness under that section.

Deferment: If a business is in operation on February 15, 2020; and has an application for a Covered Loan that is approved or pending approval on or after the date of enactment of the CARES Act, the business will be presumed to be an “impacted borrower” and lenders are required to provide complete payment deferment relief for impacted borrowers with Covered Loans for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year. If a purchaser of the loan on the secondary market does not approve deferral, SBA can repurchase loan.

Secondary Market Sales: Permitted. No SBA guarantee for loans sold on secondary market.

SBA Guarantee: 100%

SBA Guidance: SBA is to provide guidance rules within 30 days of enactment of the CARES Act.

Regulatory Capital Requirements: For lending institutions, loans will be given a risk weight of zero; troubled debt restructure notices are modified.