



# Independent Bankers Association of Texas

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## Compliance Information for Community Bankers by Community Bankers

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### Paycheck Protection Program Updates

#### The Economic Aid to Hard Hit Small Businesses, Nonprofits, and Venues Act

Not later than 10 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out this Act and the amendments made by this Act

Topic	Guidance	How this affects Existing PPP Loans
Eligibility for 2 <sup>nd</sup> PPP Loan	<p>Maximum loan amount of \$2MM</p> <p>Eligibility for a 2<sup>nd</sup> loan requires:</p> <ol style="list-style-type: none"><li>1. 300 employees or less</li><li>2. If a 1<sup>st</sup> PPP loan was received, must have used or will use all funds prior to disbursement of a 2<sup>nd</sup> PPP loan</li><li>3. Had a reduction of 25% or more in gross receipts in any quarter of 2020 when compared with the same quarter of 2019. (Specific guidance provided for businesses which were only operating in certain quarters of 2019)</li></ol>	<b>PPP loan proceeds must be used prior to disbursement of 2<sup>nd</sup> PPP loan.</b>
Eligibility Clarifications	<p>Businesses which were not in operation on February 20, 2020 are <b>NOT</b> eligible.</p> <p>Entities that receive a grant under the Shuttered Venue Operator Grant Program are <b>NOT</b> eligible.</p> <p>Ineligible entities include those entities listed in <a href="#">13 CFR 120.110</a> except for those otherwise made eligible by statute or guidance.</p> <p>Specifically excluded are entities involved in political and lobbying activities including advocacy such as public policy and political strategy, entities affiliated with the Peoples Republic of China, registrants under the Foreign Agents Registration Act and entities receiving a grant under the Shuttered Venue Operator Grant Program.</p>	<b>Applies to all PPP loans.</b>

<b>New Entities Eligible for PPP Loans</b>	<p><b>Housing Cooperatives</b> defined in section <a href="#">216(b) of the Internal Revenue Code of 1986</a> which employ no more than 300 employees.</p> <p><b>FCC license holders and newspapers</b> with more than one physical location if the business has not more than 500 employees per physical location or the applicable SBA size standard including 511 public colleges and universities that have a public broadcasting station if the organization certifies the loan will support locally focused emergency information.</p> <p><b>501(c)6 organizations</b> if:</p> <ol style="list-style-type: none"> <li>1) The organization does not receive more than 15% of receipts from lobbying</li> <li>2) Lobbying activities do not comprise more than 15% of activities</li> <li>3) The cost of lobbying activities did not exceed \$1MM during the most recent tax year that ended prior to February 15, 2020</li> <li>4) The organization has 300 or fewer employees</li> </ol> <p>Professional sports leagues or organizations with the purpose of promoting or participating in a political campaign or other political activities are not eligible under this section.</p> <p><b>Destination Marketing Organizations</b> if:</p> <ol style="list-style-type: none"> <li>1) The organization does not receive more than 15% of receipts from lobbying</li> <li>2) Lobbying activities do not comprise more than 15% of activities</li> <li>3) The organization has 300 or fewer employees</li> <li>4) The organization is registered as a 501(c) organization, a quasi-government entity or a political subdivision of a state or local government.</li> </ol>	<p><b>N/A</b></p>
<b>Prohibition on Use of Loan Proceeds</b>	<p>Proceeds of a PPP loan CAN NOT be used for lobbying activities as defined by the Lobbying Disclosure Act, lobbying expenditures related to state or local campaigns, and expenditures to influence the enactment of legislation, appropriations, or regulations.</p>	<p><b>Applies to all PPP loans.</b></p>

<b>Eligible Expenses</b>	<p><b>New Eligible Expenses:</b></p> <ul style="list-style-type: none"> <li>➤ <b>Covered Operations Expenditure</b> --defined as a payment for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records, and expenses.</li> <li>➤ <b>Covered Property Damage Cost</b>—defined as a cost related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that was not covered by insurance or other compensation.</li> <li>➤ <b>Covered Supplier Cost</b>—defined as an expenditure made by an entity to a supplier of goods for the supply of goods that are essential to the operations of the entity at the time at which the expenditure is made and is made pursuant to a contract, order or purchase order in effect at any time before the covered period with the respect to the applicable covered loan; or with respect to perishable goods, in effect before or at any time during the covered period with respect to the applicable covered loan.</li> <li>➤ <b>Covered Worker Protection Expenditure</b>—defined as an operating or a capital expenditure to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration, or any equivalent requirements established or guidance issued by a State or local government, during the period beginning on March 1, 2020 and ending on the date on which the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID–19) expires related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID–19.</li> </ul> <p>May include—the purchase, maintenance, or renovation of assets that create or expand a drive-through window facility; an indoor, outdoor, or combined air or air pressure ventilation or filtration system; a physical barrier such as a sneeze guard; an indoor, outdoor, or combined business space; an onsite or offsite health screening capability; or other assets relating to the compliance with the requirements or guidance described above. Other kinds of personal protective equipment, as determined by the Administrator in consultation with the Secretary of Health and Human Services. Does not include residential real property or intangible property.</p>	<p><b>Retroactive unless forgiveness funds have already been received.</b></p>
<b>Eligible Group Insurance Costs</b>	<p>Description of eligible insurance costs included in payroll is updated by clarifying that group life, disability, vision, or dental insurance can be considered.</p>	<p><b>Retroactive for all PPP Loans</b></p>
<b>Definition of a Seasonal Employer</b>	<p>Defines a seasonal employer as an eligible recipient if:</p> <ol style="list-style-type: none"> <li>1) Operated for no more than 7 months in a year or</li> <li>2) Earned no more than 1/3 of its receipts in any six months in the prior calendar year</li> </ol>	<p><b>Retroactive for all PPP loans</b></p>

<b>Gross Receipts Definition for Non-Profits and Veteran Organizations</b>	Defined as gross receipts within the meaning of <a href="#">section 6033 of the IRS Code of 1986</a> .	<b>N/A</b>
<b>Maximum Loan Amount Calculations</b>	<p>At the election of the borrower:  The average total monthly payment for payroll costs incurred or paid during:</p> <ol style="list-style-type: none"> <li>1) The 1-year period before the date on which the loan is made or</li> <li>2) Calendar year 2019</li> </ol> <p>Multiplied times 2.5 up to a maximum of \$2MM</p> <p><b>Seasonal Employers</b>  At the election of the borrower:  The average total monthly payments for payroll costs incurred or paid during:</p> <ol style="list-style-type: none"> <li>1) Any 12-week period between February 15, 2019 and February 15, 2020</li> </ol> <p>Multiplied times 2.5 up to a maximum of \$2MM</p> <p><b>New Entities</b>  The quotient obtained by dividing:</p> <ol style="list-style-type: none"> <li>1) The sum of the total monthly payments for payroll costs incurred or paid as of the date on which the entity applies for the loans by the number of months in which those payroll costs were paid or incurred</li> </ol> <p>Multiplied times 2.5 up to a maximum of \$2MM</p> <p><b>NAICS 72 Entities (Accommodation and Food Services)</b>  The average total monthly payment for payroll costs incurred or paid during:</p> <ol style="list-style-type: none"> <li>1) The 1-year period before the date on which the loan is made or</li> <li>2) Calendar year 2019</li> </ol> <p>Multiplied times 3.5 up to a maximum of \$2MM</p>	<p><b>For existing PPP loans, the borrower may apply for a loan modification to increase their loan amount if updated rules result in a higher eligible loan amount if they have not already applied for forgiveness.</b></p>

<b>Maximum Loan Amount for Farmers and Ranchers</b>	<p>For farmers and ranchers who:</p> <ol style="list-style-type: none"> <li>1) Operate as a sole proprietorship, independent contractor or as an eligible self-employed individual</li> <li>2) Report farm income or expenses on Schedule F (or any equivalent successor schedule); and</li> <li>3) Were in business as of February 15, 2020</li> </ol> <p>With NO EMPLOYEES The gross income in 2019 as reported on Schedule F (or any equivalent successor schedule) that is not more than \$100,000 divided by 12 and multiplied by 2.5 (plus any EIDL made between January 31, 2020 and April 3, 2020 they want to refinance) up to a maximum of \$2MM.</p> <p>With EMPLOYEES The sum calculated above would be added to the payroll calculation.</p> <p>RECALCULATION – The lender may recalculate using this new formula and advance additional funds to the borrower at the borrower’s request.</p>	<p><b>Retroactive unless forgiveness funds have already been received.</b></p>
<b>Simplified Revenue Test for Loans up to \$150,000</b>	<p>For loans of \$150,000 or less, the borrower may only submit a certification statement that it meets the revenue loss requirement at the time of loan application and provide proof of revenue loss at the time they submit a forgiveness application.</p>	<p><b>N/A</b></p>
<b>Loans \$150,000 or Below</b>	<p><b>For loans \$150,000 or less made to an eligible recipient, forgiveness will be granted with the following information:</b></p> <ol style="list-style-type: none"> <li>1) A signed and submitted 1-page application (to be established by SBA within 24 days of the enactment of this Act) providing: <ol style="list-style-type: none"> <li>A. A description of the number of employees retained because of the PPP loan</li> <li>B. Estimated amount of PPP loan spent on payroll costs</li> <li>C. Total loan amount</li> <li>D. Borrower attestations that: <ol style="list-style-type: none"> <li>a. The information is accurate</li> <li>b. The borrower complied with the requirements of the statute</li> <li>c. The borrower will retain records that prove compliance as follows: <ol style="list-style-type: none"> <li>i. Employment records- 4 years after application submission</li> <li>ii. Other records-3 years after application submission</li> </ol> </li> </ol> </li> </ol> </li> </ol> <p>Does not allow for additional information requests at the time of application for purposes of forgiveness but does allow requests to satisfy other statutory or regulatory requirements.</p> <p>The SBA will still have the right to audit and review these loans.</p>	<p><b>Retroactive for all PPP Loans</b></p>

<b>Audit and Review Process for Loans over \$150,000</b>	Not later than 45 days after enactment of this Act, the SBA will submit an audit plan to the Committees on Small Business and Entrepreneurship of the House and Senate the following: 1) Policies and procedures for conducting forgiveness reviews and audits 2) Metrics used to determine which loans will be audited	<b>Retroactive for all PPP Loans</b>
<b>Lender Processing Fees</b>	Loans up to \$50,000 -50% of loan amount or \$2,500 whichever is less  Loans \$50,001 to \$350,000- 5% of loan amount  Loans over \$350,000- 3 % of loan amount	<b>N/A</b>
<b>Agent Fees</b>	A lender shall only be responsible for paying fees to an agent for services for which the lender directly contracts with the agent.	<b>Retroactive for all PPP Loans</b>
<b>Standard Procedures</b>	Allows lenders to use existing <a href="#">SBA Standard Operating Procedures</a> to the extent possible for PPP loans.	<b>Retroactive for all PPP Loans</b>
<b>Bankruptcy Provisions</b>	Special procedures are available in the bankruptcy process if an entity is determined to be eligible for a PPP loan. It requires court approval and requires any loan be given a super priority claim in the bankruptcy process. These provisions would take effect upon a written determination by the SBA and would sunset after two years.	<b>N/A</b>
<b>EIDL Advance Deduction Repeal</b>	Repeals the section of The Cares Act which requires PPP borrowers to deduct the amount of their EIDL advance from their PPP forgiveness amount.  Establishes that EIDL Advance borrowers should be made whole without regard to whether those borrowers are eligible for PPP forgiveness.  The Administrator shall issue rules that ensure borrowers are made whole if they received forgiveness and their EIDL was deducted from that amount.	<b>Retroactive for all PPP Loans</b>

<b>Covered Period</b>	<p>Allows the borrower to use the 8-week or 24-week covered period.</p> <p>The borrower may also use a covered period:</p> <p style="padding-left: 40px;">Beginning on the date of loan origination, and</p> <p style="padding-left: 40px;">Ending on a date</p> <p style="padding-left: 80px;">after the end of the 8<sup>th</sup> week after loan origination and</p> <p style="padding-left: 80px;">before the end of the 24<sup>th</sup> week after loan origination.</p>	<b>Retroactive to all PPP loans</b>
<b>Hold Harmless</b>	<p>RELIANCE.—A lender may rely on any certification or documentation submitted by an applicant for an initial or second draw PPP loan or an eligible recipient or eligible entity receiving initial or second draw PPP loan that— “(A) is submitted pursuant to all applicable statutory requirements, regulations, and guidance related to initial or second draw PPP loan, including under paragraph (36) or (37) of section 7(a) and under this section; and (B) attests that the applicant, eligible recipient, or eligible entity, as applicable, has accurately provided the certification or documentation to the lender in accordance with the statutory requirements, regulations, and guidance described in subparagraph (A).</p> <p>NO ENFORCEMENT ACTION.— With respect to a lender that relies on a certification or documentation described in paragraph (2) related to an initial or second draw PPP loan, an enforcement action may not be taken against the lender, and the lender shall not be subject to any penalties relating to loan origination or forgiveness of the initial or second draw PPP loan, if— (A) the lender acts in good faith relating to loan origination or forgiveness of the initial or second draw PPP loan based on that reliance; and (B) all other relevant Federal, State, local, and other statutory and regulatory requirements applicable to the lender are satisfied with respect to the initial or second draw PPP loan.</p>	<b>Retroactive for all PPP Loans</b>

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