

FLASH REPORT
SMALL BUSINESS ADMINISTRATION'S
IMPLEMENTATION OF THE PAYCHECK PROTECTION
PROGRAM REQUIREMENTS

May 8, 2020





EXECUTIVE SUMMARY

SMALL BUSINESS ADMINISTRATION'S IMPLEMENTATION OF THE PAYCHECK PROTECTION PROGRAM REQUIREMENTS

Report
No. 20-14

May 8,
2020

Why We Did This

On April 24, 2020, the Office of Inspector General (OIG) initiated its planned review of the Small Business Administration's (SBA's) implementation of the Paycheck Protection Program (PPP). Based on this ongoing work, we produced a flash report to meet the information needs of Senators Schumer, Cardin, and Brown. We analyzed key provisions of Section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was signed into law by the President on March 27, 2020, to provide economic relief to our Nation, and SBA's Interim Final Rules and public guidance intended to further inform stakeholders of SBA's implementation of the PPP. Section 1102, created the PPP under section 7(a) of the Small Business Act, and the PPP provided for \$349 billion in fully guaranteed SBA loans, which can be forgiven if used in accordance with the Act.

SBA launched the program on April 3, 2020, and just 14 days later, by April 16, PPP lenders approved more than 1,661,000 loans totaling nearly \$342.3 billion. On April 24, 2020, the President signed the Paycheck Protection Program and Health Care Enhancement Act to provide an additional \$310 billion to the PPP. SBA initiated this cycle of additional funding on April 27, 2020. As of May 6, PPP lenders approved an additional 2,441,369 loans, totaling about \$183.5 billion. The Paycheck Protection Program and Health Care Enhancement Act set aside portions of the additional funding for smaller lenders, but there were no other significant differences regarding requirements for the PPP than in the CARES Act.

The Senators also asked that by May 8, 2020, we provide recommendations on SBA's current rules, regulations, policies, and procedures to ensure small businesses get the money they need and are treated fairly by PPP lenders.

What We Reviewed

To conduct our comparative analysis, we reviewed and assessed the regulations for the PPP and for the Paycheck Protection Program and Health Care Enhancement Act, in addition to guidance

published in SBA's Interim Final Rules and FAQs issued as of April 30, 2020. We also assessed the PPP borrower application and additional public documents issued by SBA and the U.S. Department of the Treasury.

What We Found

We found that SBA's Interim Final Rules for implementing the PPP and SBA's FAQs mostly aligned with the Act. We identified the following areas, however, that did not fully align with the Act's provisions:

- Prioritizing Underserved and Rural Markets
- Loan Proceeds Eligible for Forgiveness
- Guidance on Loan Deferments
- Registration of Loans

Suggested Actions for SBA

To better align PPP requirements with the provisions of the CARES Act, we suggest SBA:

- Issue guidance to lenders requiring the lenders to prioritize borrowers in underserved markets and revise the borrower application to include collection of optional demographic information for the principals for the remaining available lending authority and any future lending under the program.
- For loans that are already disbursed, include optional demographic information on forms used to request loan forgiveness.
- Evaluate the potential negative impact to borrowers regarding the specified percentage of loan proceeds eligible for forgiveness and update the requirements, as deemed necessary.
- Issue guidance to lenders on the deferment process for PPP loans.
- Register PPP loans by Taxpayer Identification Number.




Office of Inspector General

U.S. Small Business Administration

DATE: May 8, 2020

TO: Jovita Carranza
Administrator

FROM: Hannibal "Mike" Ware
Inspector General 

SUBJECT: Small Business Administration's Implementation of the Paycheck Protection Program Requirements

On April 24, 2020, the Office of Inspector General (OIG) initiated its planned review of the Small Business Administration's (SBA's) implementation of the Paycheck Protection Program (PPP). Based on this ongoing work, we produced a flash report to meet the information needs of Senators Schumer, Cardin, and Brown. We analyzed key provisions of the legislation, in addition to SBA's Interim Final Rules and public guidance intended to further inform stakeholders of SBA's implementation of the PPP. The Senators also asked that by May 8, 2020, we provide recommendations on SBA's current rules, regulations, policies, and procedures to ensure small businesses get the money they need and are treated fairly by any PPP lender. This report presents the results of our analysis of key provisions of Section 1102 of the CARES Act and SBA's Interim Final Rules and public guidance intended to further inform stakeholders of SBA's implementation of the Paycheck Protection Program.

Background

The President signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law on March 27, 2020, to provide economic relief to our Nation. One of the Act's largest provisions, Section 1102, created the PPP under section 7(a) of the Small Business Act. This program provides \$349 billion in fully guaranteed SBA loans—which can be forgiven if used in accordance with the Act—for certain eligible small businesses, individuals and non-profit organizations to cover payroll, rent, utility payments, and other limited uses. Between March 27 and April 30, 2020, SBA published seven Interim Final Rules and issued further guidance in 39 FAQs.

SBA was tasked with expediting the implementation of this unprecedented program to mitigate the economic impact of social distancing efforts put forth to curb the infection rate of the COVID-19 outbreak. SBA launched the program on April 3, 2020, only 1 week after the Act was passed. Demand for the program was extraordinary: by April 16, just 14 days after SBA launched the program, PPP lenders approved more than 1,661,000 loans totaling nearly \$342.3 billion.

Table 1 provides more specific loan information.

**Table 1: Summary of Paycheck Protection Program Loans From Round 1
(Data as of 12:00 p.m., Thursday, April 16, 2020)**

Loan Count	Net Approved Dollars	Lender Count
1,661,367	\$342,277,999,103	4,975

Source: SBA PPP website.

On April 24, 2020, the President signed the Paycheck Protection Program and Health Care Enhancement Act to provide an additional \$310 billion to the PPP. SBA initiated this cycle of additional funding on April 27. As of May 6, PPP lenders approved an additional 2,441,369 loans totaling more than \$183.5 billion. Table 2 provides more specific loan information.

**Table 2: Summary of Paycheck Protection Program Round 2
(Data as of 5:00 p.m., Wednesday, May 6, 2020)¹**

Lender Size	Approved Loans	Total Amount
>\$50 B in Assets	1,147,890	\$97,324,262,313
\$10 B to \$50 B in Assets	347,368	\$28,032,705,351
<\$10 B in Assets	946,111	\$58,168,884,165
Total	2,441,369	\$183,525,851,829

Before the PPP, SBA's largest single year in 7(a) lending volume was approximately \$25.4 billion, in fiscal year 2017. Between April 3 and May 6, 2020, SBA lenders participating in the PPP approved 4,102,736 loans totaling more than \$525.8 billion, an amount representing more than 20 times the largest year in SBA's history in just 33 days.

Paycheck Protection Program Statutory Authority, Formal Guidance, and Other Guidance

Statutory Authority

The PPP provides guaranteed loans to assist certain businesses, individuals, and organizations with getting back to work and outlines provisions for lending and forgiveness of these loans. The Paycheck Protection Program and Healthcare Enhancement Act on April 24, 2020, provided additional funding to the PPP. The Enhancement Act also included a set aside for insured depository institutions, credit unions, and community financial institutions.

Formal Guidance

SBA also issued Interim Final Rules for the execution of these provisions consistent with the CARES Act. As of April 30, 2020, SBA issued seven Interim Final Rules. Appendix I includes the Interim Final Rules issued as of April 30, 2020.

¹ The information was retrieved from SBA's PPP Website.

Other Guidance

Additional guidance for the PPP is contained in FAQs and specific loan program forms. As of April 30, 2020, SBA responded to 39 FAQs that addressed various aspects of program implementation. These areas primarily related to program eligibility, loan size calculations, and loan sales on the secondary market.

Appendix II provides a detailed comparison of the CARES Act requirements, the Interim Final Rules, and the 39 FAQs.

Scope

The scope of our review included an assessment of the following:

- Statutory authority for the PPP (Section 1102 of the CARES Act)
- Statutory authority for the Paycheck Protection Program and Health Care Enhancement Act
- Regulations published in SBA's seven Interim Final Rules issued as of April 30, 2020
- SBA's guidance published as 39 FAQs issued as of April 30, 2020
- SBA's PPP Borrower Application
- Additional public documents issued by SBA and the U.S. Department of the Treasury

Results

We found that SBA's formal guidance, issued as its seven Interim Final Rules, for implementing the PPP and its FAQs mostly aligned with the Act. We identified the following areas, however, that did not fully align with the Act's provisions:

- Prioritizing Underserved and Rural Markets
- Loan Proceeds Eligible for Forgiveness
- Guidance on Loan Deferments
- Registration of Loans

Prioritizing Underserved and Rural Markets

We did not find any evidence that SBA issued guidance to lenders to prioritize the markets indicated by the Act. Further, SBA did not include the optional standard demographic information for principals on its PPP loan application. Section 1102 of the CARES Act states that the Administrator should issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 15 U.S.C. 637(d)(3)(C)), women, and businesses in operation for under 2 years.

Because SBA did not provide guidance to lenders about prioritizing borrowers in underserved and rural markets, these borrowers, including rural, minority and women-owned businesses may not have received the loans as intended. In addition, because SBA did not require demographic data to identify PPP borrowers in underserved markets, it is unlikely that SBA will be able to determine the loan volume to the intended prioritized markets.

Loan Proceeds Eligible for Forgiveness

We found the formal guidance in SBA's Interim Final Rule did not align with the allowable use requirements for PPP loans. The CARES Act details the allowable uses for PPP loans, including payroll costs, 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 incurred before the covered period. While the Act did not create any restrictions on the portion of the loan that needed to be used for payroll, SBA added a requirement in its Interim Final Rule, that at least 75 percent of the loan proceeds must be used for payroll. SBA, in coordination with the Secretary of the Treasury, provided the following explanation:

While the Act provides that borrowers are eligible for forgiveness in an amount equal to the sum of payroll costs and any payments of mortgage interest, rent, and utilities, the Administrator has determined that the non-payroll portion of the forgivable loan amount should be limited to effectuate the core purpose of the statute and ensure finite program resources are devoted primarily to payroll. The Administrator has determined in consultation with the Secretary that 75 percent is an appropriate percentage in light of the Act's overarching focus on keeping workers paid and employed. Further, the Administrator and the Secretary believe that applying this threshold to loan forgiveness is consistent with the structure of the Act, which provides a loan amount 75 percent of which is equivalent to eight weeks of payroll (8 weeks/2.5 months = 56 days/76 days = 74 percent rounded up to 75 percent). Limiting non-payroll costs to 25 percent of the forgiveness amount will align these elements of the program and will also help to ensure that the finite appropriations available for PPP loan forgiveness are directed toward payroll protection.

In addition to the 75-percent payroll criteria, the maturity term established by the Administrator and the Secretary would require the borrowers to repay any amount not eligible for forgiveness within the remainder of the initial 2-year term. The Act, however, allowed for a maximum maturity of up to 10 years. SBA's requirements could result in an unintended burden to the borrowers. For example, PPP borrowers who do not use at least 75 percent of the loan for payroll (therefore use more than 25 percent of their loan proceeds for nonpayroll expenses) may not be able to have all of their loan forgiven. It may be important to consider that many small businesses have more operational expenses than employee expenses. Our review of data from round one found that tens of thousands of borrowers would not meet the 75-percent payroll cost threshold and would therefore have to repay the amount of nonpayroll costs in excess of 25 percent in less than 2 years.

Guidance on Loan Deferments

We found that SBA did not issue guidance on the deferment process for PPP loans to lenders within 30 days as required. Specifically, the Act requires SBA to provide guidance to lenders on the deferment process within 30 days of enactment (March 27, 2020). Section 1102 of the CARES Act requires lenders 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. As of May 5, 2020, we found no evidence that SBA issued this guidance.

Without proper and timely guidance for loan deferments, lenders and borrowers may be uncertain about program requirements for servicing and loan repayments for PPP loans with balances

remaining after forgiveness. Specifically, lenders may not be adequately prepared to service PPP loans that carry balances, and borrowers may not know what is required to repay outstanding loan balances.

Registration of Loans

We found no evidence that SBA registered the loans as required by the Act. While SBA collects the applicant's Taxpayer Identification Number (TIN), we did not find it registered this information. Section 1102 states that not later than 15 days after the date on which a loan is made, SBA shall register the loan using the TIN assigned to the borrower.

Suggested Actions for SBA

To better align PPP requirements with the provisions of the CARES Act we suggest that SBA:

- Issue guidance to lenders requiring the lenders to prioritize borrowers in underserved markets and revise the PPP borrower application to include the collection of optional demographic information for principals for the remaining available lending authority and any future lending under the program.
- For loans that are already disbursed, include optional demographic information on forms used to request loan forgiveness.
- Evaluate the potential negative impact to borrowers regarding the specified percentage of loan proceeds eligible for forgiveness and update the requirements, as deemed necessary.
- Issue guidance to lenders on the deferment process for PPP loans.
- Register PPP loans by TIN.

Disclaimer

This report compares and contrasts key provisions of Section 1102 of the CARES Act to SBA's Interim Final Rules and other public guidance to further inform stakeholders of SBA's implementation of the PPP. We are performing our ongoing review of SBA's implementation of the PPP under the Council of the Inspectors General for Integrity and Efficiency's Quality Standards for Inspection and Evaluation, but we have not prepared this flash report to meet this standard.

If you have any questions, please contact me at 202-205-6586 or Andrea Deadwyler, Assistant Inspector General for Audits, at 202-205-6616.

cc: William Manger, Chief of Staff and Associate Administrator, Office of Capital Access
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Appendix I: Interim Final Rules

Interim Final Rule Number	Subject	Date Issued
1	Paycheck Protection Program	April 2, 2020
2	Affiliation Rules	April 3, 2020
3	Additional Eligibility Criteria and Requirements for Certain Pledges of Loans for the Paycheck Protection Program	April 14, 2020
4	Promissory Notes, Authorizations, Affiliation, and Eligibility	April 24, 2020
5	Seasonal Employers	April 27, 2020
6	Disbursements	April 28, 2020
7	Requirements – Corporate Groups and Non-Bank and Non-Insured Depository Institution Lenders	April 30, 2020

Appendix II: Detailed Comparison

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(A)(viii) The term 'payroll costs'- (I) means</p> <ul style="list-style-type: none"> (aa) the sum of payments of any compensation with respect to employees that is a— <ul style="list-style-type: none"> (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 “(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; <p>And</p>	<p>Interim Final Rule 1, Issued April 2, 2020, (IFR1) Section III(2)(f). What qualifies as “payroll costs?”</p> <p>Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation.</p>	<p>FAQ # 7: The CARES Act excludes from the definition of payroll costs any employee compensation in excess of an annual salary of \$100,000. Does that exclusion apply to all employee benefits of monetary value?</p> <p>Answer: No. The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including:</p> <ul style="list-style-type: none"> - employer contributions to defined-benefit or defined-contribution retirement plans; - payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums; and - payment of state and local taxes assessed on compensation of employees. <p>FAQ # 8: Do PPP loans cover paid sick leave?</p> <p>Answer: Yes. PPP loans covers payroll costs, including costs for employee vacation, parental, family, medical, and sick leave. However, the CARES Act excludes qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116-127). Learn more about the Paid Sick Leave Refundable Credit here.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(A)(viii) The term 'payroll costs'-</p> <p>“(II) shall not include—</p> <p>“(aa) the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period;</p> <p>“(bb) taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code of 1986 during the covered period;</p> <p>“(cc) any compensation of an employee whose principal place of residence is outside of the United States;</p> <p>“(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</p> <p>“(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);</p>	<p>IFR1 Section III(2)(f). What qualifies as “payroll costs?”</p> <p>Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation.</p>	<p>FAQ # 7: The CARES Act excludes from the definition of payroll costs any employee compensation in excess of an annual salary of \$100,000. Does that exclusion apply to all employee benefits of monetary value?</p> <p>Answer: No. The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including:</p> <ul style="list-style-type: none"> - employer contributions to defined-benefit or defined-contribution retirement plans; - payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums; and - payment of state and local taxes assessed on compensation of employees.

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(B) PAYCHECK PROTECTION LOANS.— Except as otherwise provided in this paragraph, the Administrator may guarantee covered loans under the same terms, conditions, and processes as a loan made under this subsection.</p>	<p>IFR1 Section III(4)a. What are the loan terms and conditions?</p> <p>Loans will be guaranteed under the PPP under the same terms, conditions and processes as other 7(a) loans, with certain changes including but not limited to:</p> <ul style="list-style-type: none"> i. The guarantee percentage is 100 percent. ii. No collateral will be required. iii. No personal guarantees will be required. iv. The interest rate will be 100 basis points or one percent. v. All loans will be processed by all lenders under delegated authority and lenders will be permitted to rely on certifications of the borrower in order to determine eligibility of the borrower and the use of loan proceeds. 	<p>We did not identify any FAQ that related directly to this requirement.</p>
<p>Section 1102(a)(2)(C) REGISTRATION OF LOANS.— Not later than 15 days after the date on which a loan is made under this paragraph, the Administration shall register the loan using the TIN (as defined in section 7701 of the Internal Revenue Code of 1986) assigned to the borrower.</p>	<p>We did not identify any requirements in the Interim Final Rules as of April 30, 2020 that related directly to this requirement.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(D) INCREASED ELIGIBILITY FOR CERTAIN SMALL BUSINESSES AND ORGANIZATIONS.—</p> <p>“(i) IN GENERAL.—During the covered period, in addition to small business concerns, any business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 31(b)(2)(C) shall be eligible to receive a covered loan if the business concern, nonprofit organization, veterans organization, or Tribal business concern employs not more than the greater of—</p> <p>“(I) 500 employees; or</p> <p>“(II) if applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, veterans organization, or Tribal business concern operates.</p>	<p>IFR1 Section III(2)(a) Am I eligible?</p> <p>You are eligible for a PPP loan if you have 500 or fewer employees whose principal place of residence is in the United States, or are a business that operates in a certain industry and meet the applicable SBA employee-based size standards for that industry, and:</p> <p>i. You are:</p> <p>A. A small business concern as defined in section 3 of the Small Business Act (15 USC 632), and subject to SBA’s affiliation rules under 13 CFR 121.301(f) unless specifically waived in the Act;</p> <p>B. A tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC), a tax-exempt veterans organization described in section 501(c)(19) of the IRC, Tribal business concern described in section 31(b)(2)(C) of the Small Business Act, or any other business; and</p> <p>ii. You were in operation on February 15, 2020 and either had employees for whom you paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099-MISC. You are also eligible for a PPP loan if you are an individual who operates under a sole proprietorship or as an independent contractor or eligible self-employed individual, you were in operation on February 15, 2020.</p>	<p>FAQ # 2: Are small business concerns (as defined in section 3 of the Small Business Act, 15 U.S.C. 632) required to have 500 or fewer employees to be eligible borrowers in the PPP?</p> <p>Answer: No. Small business concerns can be eligible borrowers even if they have more than 500 employees, as long as they satisfy the existing statutory and regulatory definition of a “small business concern” under section 3 of the Small Business Act, 15 U.S.C. 632. A business can qualify if it meets the SBA employee-based or revenue-based size standard corresponding to its primary industry. Go to www.sba.gov/size for the industry size standards.</p> <p>Additionally, a business can qualify for the Paycheck Protection Program as a small business concern if it met both tests in SBA’s “alternative size standard” as of March 27, 2020: (1) maximum tangible net worth of the business is not more than \$15 million; and (2) the average net income after Federal income taxes (excluding any carry-over losses) of the business for the two full fiscal years before the date of the application is not more than \$5 million.</p> <p>A business that qualifies as a small business concern under section 3 of the Small Business Act, 15 U.S.C. 632, may truthfully attest to its eligibility for PPP loans on the Borrower Application Form, unless otherwise ineligible.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(D)(ii) INCLUSION OF SOLE PROPRIETORS, INDEPENDENT CONTRACTORS, AND ELIGIBLE SELF-EMPLOYED INDIVIDUALS.—</p> <p>“(I) IN GENERAL.—During the covered period, individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible to receive a covered loan.</p> <p>“(II) DOCUMENTATION.—An eligible self-employed individual, independent contractor, or sole proprietorship seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service, Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the Administrator and the Secretary.</p>	<p>IFR1 Section III(2)(a) Am I eligible?</p> <p>You are also eligible for a PPP loan if you are an individual who operates under a sole proprietorship or as an independent contractor or eligible self-employed individual, you were in operation on February 15, 2020.</p> <p>You must also submit such documentation as is necessary to establish eligibility such as payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship. For borrowers that do not have any such documentation, the borrower must provide other supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount. SBA intends to promptly issue additional guidance with regard to the applicability of affiliation rules at 13 CFR §§ 121.103 and 121.301 to PPP loans</p>	<p>FAQ # 15: Should payments that an eligible borrower made to an independent contractor or sole proprietor be included in calculations of the eligible borrower’s payroll costs?</p> <p>Answer: No. Any amounts that an eligible borrower has paid to an independent contractor or sole proprietor should be excluded from the eligible business’s payroll costs. However, an independent contractor or sole proprietor will itself be eligible for a loan under the PPP, if it satisfies the applicable requirements.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(D)(iii) BUSINESS CONCERNS WITH MORE THAN 1 PHYSICAL LOCATION.— During the covered period, 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 disbursal shall be eligible to receive a covered loan.</p>	<p>Interim Final Rule on Applicable Affiliation Rules, Issued April 3, 2020, (IFR2) Section III(1)</p> <p>How do SBA’s affiliation rules affect my eligibility and apply to me under the PPP?</p> <p>An entity generally is eligible for the PPP if it, combined with its affiliates, is a small business as defined in section 3 of the Small Business Act (15 U.S.C. 632), or (1) has 500 or fewer employees whose principal place of residence is in the United States or is a business that operates in a certain industry and meets applicable SBA employee-based size standards for that industry, and (2) is a tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC), a tax-exempt veterans organization described in section 501(c)(19) of the IRC, a Tribal business concern described in section 31(b)(2)(C) of the Small Business Act, or any other business concern. Prior to the Act, the nonprofit organizations listed above were not eligible for SBA Business Loan Programs under section 7(a) of the Small Business Act; only for-profit small business concerns were eligible. *For brevity, we excluded additional text from the Interim Final Rule.</p>	<p>FAQ # 24: How do the \$10 million cap and affiliation rules work for hotels and restaurants (and any business assigned a North American Industry Classification System (NAICS) code beginning with 72)?</p> <p>Answer: Under the CARES Act, any single business entity that is assigned a NAICS code beginning with 72 (including hotels and restaurants) and that employs not more than 500 employees per physical location is eligible to receive a PPP loan.</p> <p>In addition, SBA’s affiliation rules (13 CFR 121.103 and 13 CFR 121.301) do not apply to any business entity that is assigned a NAICS code beginning with 72 and that employs not more than a total of 500 employees. As a result, if each hotel or restaurant location owned by a parent business is a separate legal business entity, each hotel or restaurant location that employs not more than 500 employees is permitted to apply for a separate PPP loan provided it uses its unique EIN.</p> <p>The \$10 million maximum loan amount limitation applies to each eligible business entity, because individual business entities cannot apply for more than one loan. The following examples illustrate how these principles apply.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(D)(iv) WAIVER OF AFFILIATION RULES.—During the covered period, the provisions applicable to affiliations under section 121.103 of title 13, Code of Federal Regulations, or any successor regulation, are waived with respect to eligibility for a covered loan for—</p> <p>“(I) any business concern with not more than 500 employees that, as of the date on which the covered loan is disbursed, is assigned a North American Industry Classification System code beginning with 72;</p> <p>“(II) any business concern operating as a franchise that is assigned a franchise identifier code by the Administration; and</p> <p>“(III) any business concern that receives financial assistance from a company licensed under section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681).</p>	<p>IFR2 Section III. Affiliate Rules for Paycheck Protection Program</p> <p>1. Affiliation Rules Generally</p> <p>Are affiliates considered together for purposes of determining eligibility?</p> <p>In most cases, a borrower will be considered together with its affiliates for purposes of determining eligibility for the PPP.</p> <p>Section 7(a)(36)(D)(iv) of the Small Business Act (15 U.S.C. 636(a)(36)(D)(iv), as added by the Act, waives the affiliation rules contained in § 121.103 for (1) any business concern with not more than 500 employees that, as of the date on which the loan is disbursed, is assigned a North American Industry Classification System code beginning with 72; (2) any business concern operating as a franchise that is assigned a franchise identifier code by the Administration; and (3) any business concern that receives financial assistance from a company licensed under section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681). This Interim Final Rule has no effect on these statutory waivers, which remain in full force and effect. As a result, the affiliation rules contained in section 121.301 also do not apply to these types of entities.</p>	<p>FAQ # 23: How do the \$10 million cap and affiliation rules work for franchises?</p> <p>Answer: If a franchise brand is listed on the SBA Franchise Directory, each of its franchisees that meets the applicable size standard can apply for a PPP loan. (The franchisor does not apply on behalf of its franchisees.) The \$10 million cap on PPP loans is a limit per franchisee entity, and each franchisee is limited to one PPP loan.</p> <p>Franchise brands that have been denied listing on the Directory because of affiliation between franchisor and franchisee may request listing to receive PPP loans. SBA will not apply affiliation rules to a franchise brand requesting listing on the Directory to participate in the PPP, but SBA will confirm that the brand is otherwise eligible for listing on the Directory.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(D)(v) EMPLOYEE.—For purposes of determining whether a business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 31(b)(2)(C) employs not more than 500 employees under clause (i)(I), the term ‘employee’ includes individuals employed on a full-time, part-time, or other basis.</p>	<p>IFR2 Section III(3) § 121.103 How does SBA determine affiliation?”</p> <p>In addition, the eligibility criteria set forth in 15 U.S.C. 636(a)(36)(D) are satisfied for any faith based organization having not more than 500 employees (including individuals employed on a full-time, part-time, or other basis) that pays federal payroll taxes using its own Internal Revenue Service Employer Identification Number (EIN) or that would be eligible for a deduction under the second sentence of 26 U.S.C. 512(b)(12) if the organization earned unrelated business taxable income.</p>	<p>FAQ 36: To determine borrower eligibility under the 500-employee or other applicable threshold established by the CARES Act, must a borrower count all employees or only full-time equivalent employees?</p> <p>Answer: For purposes of loan eligibility, the CARES Act defines the term employee to include “individuals employed on a full-time, part-time, or other basis.” A borrower must therefore calculate the total number of employees, including part-time employees, when determining their employee headcount for purposes of the eligibility threshold. For example, if a borrower has 200 full-time employees and 50 part-time employees each working 10 hours per week, the borrower has a total of 250 employees. By contrast, for purposes of loan forgiveness, the CARES Act uses the standard of “fulltime equivalent employees” to determine the extent to which the loan forgiveness amount will be reduced in the event of workforce reductions.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(D)(vi) AFFILIATION.—The provisions applicable to affiliations under section 121.103 of title 13, Code of Federal Regulations, or any successor thereto, shall apply with respect to a nonprofit organization and a veterans organization in the same manner as with respect to a small business concern.</p>	<p>IFR2 Section III(1) How do SBA’s affiliation rules affect my eligibility and apply to me under the PPP?</p> <p>The Act made such nonprofit organizations not only eligible for the PPP, but also subjected them to SBA’s affiliation rules. Specifically, section 1102 of the Act provides that the provisions applicable to affiliations under 13 CFR 121.103 apply with respect to nonprofit organizations and veterans organizations in the same manner as with respect to small business concerns. However, the detailed affiliation standards contained in section 121.103 currently do not apply to PPP borrowers, because section 121.103(a)(8) provides that applicants in SBA’s Business Loan Programs (which include the PPP) are subject to the affiliation rule contained in 13 CFR 121.301.</p>	<p>FAQ 3: Does my business have to qualify as a small business concern (as defined in section 3 of the Small Business Act, 15 U.S.C. 632) in order to participate in the PPP?</p> <p>Answer: In addition to small business concerns, a business is eligible for a PPP loan if the business has 500 or fewer employees whose principal place of residence is in the United States, or the business meets the SBA employee-based size standards for the industry in which it operates (if applicable). Similarly, PPP loans are also available for qualifying tax-exempt nonprofit organizations described in section 501(c)(3) of the Internal Revenue Code (IRC), tax-exempt veterans organization described in section 501(c)(19) of the IRC, and Tribal business concerns described in section 31(b)(2)(C) of the Small Business Act that have 500 or fewer employees whose principal place of residence is in the United States, or meet the SBA employee-based size standards for the industry in which they operate.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(E) MAXIMUM LOAN AMOUNT.—During the covered period, with respect to a covered loan, the maximum loan amount shall be the lesser of—</p> <p>“(i)(I) the sum of—</p> <p> “(aa) the product obtained by multiplying—</p> <p> “(AA) the average total monthly payments by the applicant for payroll costs incurred during the 1-year period before the date on which the loan is made, except that, in the case of an applicant that is seasonal employer, as determined by the Administrator, 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</p> <p> “(BB) 2.5; and</p> <p> “(bb) the outstanding amount of a loan under subsection (b)(2) 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; or</p>	<p>IFR1 Section III(2)d. I have determined that I am eligible. How much can I borrow?</p> <p> Under the PPP, the maximum loan amount is the lesser of \$10 million or an amount that you will calculate using a payroll-based formula specified in the Act, as explained below.</p> <p>Section III(2)e. How do I calculate the maximum amount I can borrow?</p> <p> The following methodology, which is one of the methodologies contained in the Act, will be most useful for many applicants.</p> <p> i. Step 1: Aggregate payroll costs (defined in detail below in f.) from the last twelve months for employees whose principal place of residence is the United States.</p> <p> ii. Step 2: Subtract any compensation paid to an employee in excess of an annual salary of \$100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of \$100,000 per year.</p> <p> iii. Step 3: Calculate average monthly payroll costs (divide the amount from Step 2 by 12).</p> <p> iv. Step 4: Multiply the average monthly payroll costs from Step 3 by 2.5.</p> <p> v. Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020, less the amount of any “advance” under an EIDL COVID-19 loan (because it does not have to be repaid).</p>	<p>FAQ 9: My small business is a seasonal business whose activity increases from April to June. Considering activity from that period would be a more accurate reflection of my business’s operations. However, my small business was not fully ramped up on February 15, 2020. Am I still eligible?</p> <p>Answer: In evaluating a borrower’s eligibility, a lender may consider whether a seasonal borrower was in operation on February 15, 2020 or for an 8-week period between February 15, 2019 and June 30, 2019.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>(II) if requested by an otherwise eligible recipient that was not in business during the period beginning on February 15, 2019 and ending on June 30, 2019, the sum of—</p> <p>“(aa) the product obtained by multiplying—</p> <p> “(AA) the average total monthly payments by the applicant for payroll costs incurred during the period beginning on January 1, 2020 and ending on February 29, 2020; by</p> <p> “(BB) 2.5; and</p> <p>“(bb) the outstanding amount of a loan under subsection (b)(2) 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; or</p> <p>“(ii) \$10,000,000.</p>	<p><i>(Continued from previous page)</i></p>	<p>FAQ 14: What time period should borrowers use to determine their number of employees and payroll costs to calculate their maximum loan amounts?</p> <p>Answer: In general, borrowers can calculate their aggregate payroll costs using data either from the previous 12 months or from calendar year 2019. For seasonal businesses, the applicant may use average monthly payroll for the period between February 15, 2019, or March 1, 2019, and June 30, 2019. An applicant that was not in business from February 15, 2019 to June 30, 2019 may use the average monthly payroll costs for the period January 1, 2020 through February 29, 2020.</p> <p>Borrowers may use their average employment over the same time periods to determine their number of employees, for the purposes of applying an employee-based size standard. Alternatively, borrowers may elect to use SBA’s usual calculation: the average number of employees per pay period in the 12 completed calendar months prior to the date of the loan application (or the average number of employees for each of the pay periods that the business has been operational, if it has not been operational for 12 months).</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(F) ALLOWABLE USES OF COVERED LOANS.—</p> <p>“(i) IN GENERAL.—During the covered period, an eligible recipient may, in addition to the allowable uses of a loan made under this subsection, use the proceeds of the covered loan for—</p> <p>“(I) payroll costs;</p> <p>“(II) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;</p> <p>“(III) employee salaries, commissions, or similar compensations;</p> <p>“(IV) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);</p> <p>“(V) rent (including rent under a lease agreement);</p> <p>“(VI) utilities; and</p> <p>“(VII) interest on any other debt obligations that were incurred before the covered period.</p>	<p>IFR1 Section III(2)r.</p> <p>The proceeds of a PPP loan are to be used for:</p> <ul style="list-style-type: none"> i. payroll costs (as defined in the Act and in 2.f.); ii. costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums; iii. mortgage interest payments (but not mortgage prepayments or principal payments); iv. rent payments; v. utility payments; vi. interest payments on any other debt obligations that were incurred before February 15, 2020; and/or vii. refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020. If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan. <p>However, at least 75 percent of the PPP loan proceeds shall be used for payroll costs.</p>	<p>FAQ 7: The CARES Act excludes from the definition of payroll costs any employee compensation in excess of an annual salary of \$100,000. Does that exclusion apply to all employee benefits of monetary value?</p> <p>Answer: No. The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including:</p> <ul style="list-style-type: none"> - employer contributions to defined-benefit or defined-contribution retirement plans; - payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums; and - payment of state and local taxes assessed on compensation of employees. <p>FAQ 8: Do PPP loans cover paid sick leave?</p> <p>Answer: Yes. PPP loans covers payroll costs, including costs for employee vacation, parental, family, medical, and sick leave. However, the CARES Act excludes qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116-127). Learn more about the Paid Sick Leave Refundable Credit here.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p><i>(Continued from previous page)</i></p>	<p><i>(Continued from previous page)</i></p>	<p>FAQ 15: Should payments that an eligible borrower made to an independent contractor or sole proprietor be included in calculations of the eligible borrower’s payroll costs?</p> <p>Answer: No. Any amounts that an eligible borrower has paid to an independent contractor or sole proprietor should be excluded from the eligible business’s payroll costs. However, an independent contractor or sole proprietor will itself be eligible for a loan under the PPP, if it satisfies the applicable requirements.</p> <p>FAQ 32: Does the cost of a housing stipend or allowance provided to an employee as part of compensation count toward payroll costs?</p> <p>Answer: Yes. Payroll costs includes all cash compensation paid to employees, subject to the \$100,000 annual compensation per employee limitation.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(F)(ii) DELEGATED AUTHORITY.—</p> <p>“(I) IN GENERAL.—For purposes of making covered loans for the purposes described in clause (i), a lender approved to make loans under this subsection shall be deemed to have been delegated authority by the Administrator to make and approve covered loans, subject to the provisions of this paragraph.</p> <p>“(II) CONSIDERATIONS.—In evaluating the eligibility of a borrower for a covered loan with the terms described in this paragraph, a lender shall consider whether the borrower—</p> <p>“(aa) was in operation on February 15, 2020; and</p> <p>“(bb)(AA) had employees for whom the borrower paid salaries and payroll taxes; or</p> <p>“(BB) paid independent contractors, as reported on a Form 1099-MISC.</p>	<p>IFR1 Section III(3)a. Who is eligible to make PPP loans?</p> <p>i. All SBA 7(a) lenders are automatically approved to make PPP loans on a delegated basis.</p> <p>ii. The Act provides that the authority to make PPP loans can be extended to additional lenders determined by the Administrator and the Secretary to have the necessary qualifications to process, close, disburse, and service loans made with the SBA guarantee. Since SBA is authorized to make PPP loans up to \$349 billion by June 30, 2020, the Administrator and the Secretary have jointly determined that authorizing additional lenders is necessary to achieve the purpose of allowing as many eligible borrowers as possible to receive loans by the June 30, 2020 deadline.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(F)(iii) ADDITIONAL LENDERS.—The authority to make loans under this paragraph shall be extended to additional lenders determined by the Administrator and the Secretary of the Treasury to have the necessary qualifications to process, close, disburse and service loans made with the guarantee of the Administration.</p>	<p>IFR1 Section III(3)(a)(iii). The following types of lenders have been determined to meet the criteria and are eligible to make PPP loans unless they currently are designated in Troubled Condition by their primary Federal regulator or are subject to a formal enforcement action with their primary Federal regulator that addresses unsafe or unsound lending practices:</p> <ul style="list-style-type: none"> I. Any federally insured depository institution or any federally insured credit union; II. Any Farm Credit System institution (other than the Federal Agricultural Mortgage Corporation) as defined in 12 U.S.C. 2002(a) that applies the requirements under the Bank Secrecy Act and its implementing regulations (collectively, BSA) as a federally regulated financial institution, or functionally equivalent requirements that are not altered by this rule; and III. Any depository or non-depository financing provider that originates, maintains, and services business loans or other commercial financial receivables and participation interests; has a formalized compliance program; applies the requirements under the BSA as a federally regulated financial institution, or the BSA requirements of an equivalent federally regulated financial institution; has been operating since at least February 15, 2019, and has originated, maintained, and serviced more than \$50 million in business loans or other commercial financial receivables during a consecutive 12 month period in the past 36 months, or is a service provider to any insured depository institution that has a 	<p>FAQ 22: I am a non-bank lender that meets all applicable criteria of the PPP Interim Final Rule. Will I be automatically enrolled as a PPP lender? What criteria will SBA and the Treasury Department use to assess whether to approve my application to participate as a PPP lender?</p> <p>Answer: We encourage lenders that are not currently 7(a) lenders to apply in order to increase the scope of PPP lending options and the speed with which PPP loans can be disbursed to help small businesses across America. We recognize that financial technology solutions can promote efficiency and financial inclusion in implementing the PPP. Applicants should submit SBA Form 3507 and the relevant attachments to NFRApplicationForPPP@sba.gov. Submission of the SBA Form 3507 does not result in automatic enrollment in the PPP. SBA and the Treasury Department will evaluate each application from a non-bank or non-insured depository institution lender and determine whether the applicant has the necessary qualifications to process, close, disburse, and service PPP loans made with SBA’s guarantee. SBA may request additional information from the applicant before making a determination.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p><i>(Continued from previous page)</i></p>	<p>contract to support such institution’s lending activities in accordance with 12 U.S.C. 1867(c) and is in good standing with the appropriate Federal banking agency.</p>	<p><i>(Continued from previous page)</i></p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(F)(iv) REFINANCE.—A loan made under subsection (b)(2) 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.</p>	<p>IFR1 Section III(2)(r)vii. Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020. If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(F)(v) NONRECOURSE.— Notwithstanding the waiver of the personal guarantee requirement or collateral under subparagraph (J), the Administrator shall have no recourse against any individual shareholder, member, or partner of an eligible recipient of a covered loan for nonpayment of any covered loan, except to the extent that such shareholder, member, or partner uses the covered loan proceeds for a purpose not authorized under clause (i).</p>	<p>IFR1 Section III(2)s. What happens if PPP loan funds are misused?</p> <p>If you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud. If one of your shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(G) BORROWER REQUIREMENTS.—</p> <p>“(i) CERTIFICATION.—An eligible recipient applying for a covered loan shall make a good faith certification—</p> <p>“(I) that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;</p> <p>“(II) acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;</p> <p>“(III) 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</p> <p>“(IV) 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.</p>	<p>IFR1 Section III(2)t. What certifications need to be made?</p> <p>On the Paycheck Protection Program application, an authorized representative of the applicant must certify in good faith to all of the below:</p> <ul style="list-style-type: none"> i. The applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099-MISC. ii. Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant. iii. The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments; I understand that if the funds are knowingly used for unauthorized purposes, the Federal Government may hold me legally liable such as for charges of fraud. As explained above, not more than 25 percent of loan proceeds may be used for non-payroll costs. vi. During the period beginning on February 15, 2020 and ending on December 31, 2020, the applicant has not and will not receive another loan under this program. <p>Note: For brevity, we excluded certifications iv, v, vii, and viii from the Interim Final Rule.</p>	<p>FAQ 31: Do businesses owned by large companies with adequate sources of liquidity to support the business’s ongoing operations qualify for a PPP loan?</p> <p>Answer: In addition to reviewing applicable affiliation rules to determine eligibility, all borrowers must assess their economic need for a PPP loan under the standard established by the CARES Act and the PPP regulations at the time of the loan application. Although the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere (as defined in section 3(h) of the Small Business Act), borrowers still must certify in good faith that their PPP loan request is necessary. Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.</p> <p>Note: For brevity, we limited the text above to sections of the answer to FAQ 31 related to this topic.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(H) FEE WAIVER.—During the covered period, with respect to a covered loan—</p> <p>“(i) in lieu of the fee otherwise applicable under paragraph (23)(A), the Administrator shall collect no fee; and</p> <p>“(ii) in lieu of the fee otherwise applicable under paragraph (18)(A), the Administrator shall collect no fee.</p>	<p>IFR1 Section III(4)b. Are there any fee waivers?</p> <ul style="list-style-type: none"> i. There will be no up-front guarantee fee payable to SBA by the Borrower; ii. There will be no lender’s annual service fee (“on-going guaranty fee”) payable to SBA; iii. There will be no subsidy recoupment fee; and iv. There will be no fee payable to SBA for any guarantee sold into the secondary market. 	<p>We did not identify any FAQ that related directly to this requirement.</p>
<p>Section 1102(a)(2)(I) CREDIT ELSEWHERE.— During the covered period, the requirement that a small business concern is unable to obtain credit elsewhere, as defined in section 3(h), shall not apply to a covered loan.</p>	<p>Section III(3)e. Do lenders have to apply the “credit elsewhere test”?</p> <p>No. When evaluating an applicant’s eligibility lenders will not be required to apply the “credit elsewhere test” (as set forth in section 7(a)(1)(A) of the Small Business Act (15 U.S.C. 636) and SBA regulations at 13 CFR 120.101)).</p>	<p>FAQ 31: Do businesses owned by large companies with adequate sources of liquidity to support the business’s ongoing operations qualify for a PPP loan?</p> <p>Answer: Although the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere (as defined in section 3(h) of the Small Business Act), borrowers still must certify in good faith that their PPP loan request is necessary.</p> <p>Note: For of brevity, we limited the text above to sections of the answer to FAQ 31 related to this topic.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(J) WAIVER OF PERSONAL GUARANTEE REQUIREMENT.— During the covered period, with respect to a covered loan—</p> <p>“(i) no personal guarantee shall be required for the covered loan; and</p> <p>“(ii) no collateral shall be required for the covered loan.</p>	<p>IFR1 Section III(4)a. What are the loan terms and conditions?</p> <p>Loans will be guaranteed under the PPP under the same terms, conditions and processes as other 7(a) loans, with certain changes including but not limited to:</p> <ul style="list-style-type: none"> i. The guarantee percentage is 100 percent. ii. No collateral will be required. iii. No personal guarantees will be required. iv. The interest rate will be 100 basis points or one percent. v. All loans will be processed by all lenders under delegated authority and lenders will be permitted to rely on certifications of the borrower in order to determine eligibility of the borrower and the use of loan proceeds. 	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(K) MATURITY FOR LOANS WITH REMAINING BALANCE AFTER APPLICATION OF FORGIVENESS.—With respect to a covered loan that has a remaining balance after reduction based on the loan forgiveness amount under section 1106 of the CARES Act—</p> <p>“(i) the remaining balance shall continue to be guaranteed by the Administration under this subsection; and</p> <p>“(ii) the covered loan shall have a maximum maturity of 10 years from the date on which the borrower applies for loan forgiveness under that section.</p>	<p>IFR1 Section III(2)j. What will be the maturity date on a PPP loan?</p> <p>The maturity is two years. While the Act provides that a loan will have a maximum maturity of up to ten years from the date the borrower applies for loan forgiveness (described below), the Administrator, in consultation with the Secretary, determined that a two year loan term is sufficient in light of the temporary economic dislocations caused by the coronavirus. Specifically, the considerable economic disruption caused by the coronavirus is expected to abate well before the two year maturity date such that borrowers will be able to re-commence business operations and pay off any outstanding balances on their PPP loans.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(L) INTEREST RATE REQUIREMENTS.—A covered loan shall bear an interest rate not to exceed 4 percent.</p>	<p>IFR1 Section III(2)i. What is the interest rate on a PPP loan?</p> <p>The interest rate will be 100 basis points or one percent.</p> <p>The Administrator, in consultation with the Secretary, determined that a one percent interest rate is appropriate. First, it provides low cost funds to borrowers to meet eligible payroll costs and other eligible expenses during this temporary period of economic dislocation caused by the coronavirus. Second, for lenders, the 100 basis points offers an attractive interest rate relative to the cost of funding for comparable maturities. For example, the FDIC’s weekly national average rate for a 24-month CD deposit product for the week of March 30, 2020 is 42 basis points for non-jumbo and 44 basis points for jumbo (https://www.fdic.gov/regulations/resources/rates/). Third, the interest rate is higher than the yield on Treasury securities of comparable maturity. For example, the yield on the Treasury two-year note is approximately 23 basis points. This higher yield combined with the fact that the loans are 100 percent guaranteed by the SBA and the fact that lenders will receive a substantial processing fee from the SBA provide ample inducement for lenders to participate in the PPP.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(M) LOAN DEFERMENT.—</p> <p>“(i) DEFINITION OF IMPACTED BORROWER.—</p> <p>“(I) IN GENERAL.—In this subparagraph, the term ‘impacted borrower’ means an eligible recipient that—</p> <p>“(aa) is in operation on February 15, 2020; and</p> <p>“(bb) has an application for a covered loan that is approved or pending approval on or after the date of enactment of this paragraph.</p> <p>“(II) PRESUMPTION.—For purposes of this subparagraph, an impacted borrower is presumed to have been adversely impacted by COVID-19.</p> <p>“(ii) DEFERRAL.—During the covered period, the Administrator shall—</p> <p>“(I) consider each eligible recipient that applies for a covered loan to be an impacted borrower; and</p> <p>“(II) require lenders under this subsection 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.</p>	<p>IFR1 Section III(2)n. When will I have to begin paying principal and interest on my PPP loan?</p> <p>You will not have to make any payments for six months following the date of disbursement of the loan. However, interest will continue to accrue on PPP loans during this six-month deferment. The Act authorizes the Administrator to defer loan payments for up to one year. The Administrator determined, in consultation with the Secretary, that a six-month deferment period is appropriate in light of the modest interest rate (one percent) on PPP loans and the loan forgiveness provisions contained in the Act.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(M)(iii) SECONDARY MARKET.—During the covered period, with respect to a covered loan that is sold on the secondary market, if an investor declines to approve a deferral requested by a lender under clause (ii), the Administrator shall exercise the authority to purchase the loan so that the impacted borrower may receive a deferral for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.</p>	<p>We did not identify any requirements in the Interim Final Rules issued to date that related directly to this requirement.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>
<p>Section 1102(a)(2)(M)(iv) GUIDANCE.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall provide guidance to lenders under this paragraph on the deferment process described in this subparagraph.</p>	<p>We did not identify any requirements in the Interim Final Rules issued to date that related directly to this requirement.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(N) SECONDARY MARKET SALES.—A covered loan shall be eligible to be sold in the secondary market consistent with this subsection. The Administrator may not collect any fee for any guarantee sold into the secondary market under this subparagraph.</p>	<p>IFR1 Section III(4)b. Are there any fee waivers?</p> <p>iv. There will be no fee payable to SBA for any guarantee sold into the secondary market.</p> <p>IFR1 Section III(4)d. Can PPP loans be sold into the secondary market?</p> <p>Yes. A PPP loan may be sold on the secondary market after the loan is fully disbursed. A PPP loan may be sold on the secondary market at a premium or a discount to par value. SBA will issue guidance regarding any advance purchase for loans sold in the secondary market.</p>	<p>FAQ 30: Can a lender sell a PPP loan into the secondary market?</p> <p>Answer: Yes. A PPP loan may be sold into the secondary market at any time after the loan is fully disbursed. A secondary market sale of a PPP loan does not require SBA approval. A PPP loan sold into the secondary market is 100% SBA guaranteed. A PPP loan may be sold on the secondary market at a premium or a discount to par value.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(O) REGULATORY CAPITAL REQUIREMENTS.—</p> <p>“(i) RISK WEIGHT.—With respect to the appropriate Federal banking agencies or the National Credit Union Administration Board applying capital requirements under their respective risk-based capital requirements, a covered loan shall receive a risk weight of zero percent.</p> <p>“(ii) TEMPORARY RELIEF FROM TDR DISCLOSURES.—Notwithstanding any other provision of law, an insured depository institution or an insured credit union that modifies a covered loan in relation to COVID-19-related difficulties in a troubled debt restructuring on or after March 13, 2020, shall not be required to comply with the Financial Accounting Standards Board Accounting Standards Codification Subtopic 310-40 (‘Receivables – Troubled Debt Restructurings by Creditors’) for purposes of compliance with the requirements of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), until such time and under such circumstances as the appropriate Federal banking agency or the National Credit Union Administration Board, as applicable, determines appropriate.</p>	<p>We did not identify any requirements in the Interim Final Rules issued to date that related directly to this requirement.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(P) REIMBURSEMENT FOR PROCESSING.—</p> <p>“(i) IN GENERAL.—The Administrator shall reimburse a lender authorized to make a covered loan at a rate, based on the balance of the financing outstanding at the time of disbursement of the covered loan, of—</p> <p>“(I) 5 percent for loans of not more than \$350,000;</p> <p>“(II) 3 percent for loans of more than \$350,000 and less than \$2,000,000; and</p> <p>“(III) 1 percent for loans of not less than \$2,000,000.</p> <p>“(ii) FEE LIMITS.—An agent that assists an eligible recipient to prepare an application for a covered loan may not collect a fee in excess of the limits established by the Administrator.</p> <p>“(iii) TIMING.—A reimbursement described in clause (i) shall be made not later than 5 days after the disbursement of the covered loan.</p>	<p>IFR1 Section III(3)d. What fees will lenders be paid?</p> <p>SBA will pay lenders fees for processing PPP loans in the following amounts:</p> <ul style="list-style-type: none"> i. Five (5) percent for loans of not more than \$350,000; ii. Three (3) percent for loans of more than \$350,000 and less than \$2,000,000; and iii. One (1) percent for loans of at least \$2,000,000. <p>IFR1 Section III(4)c. Who pays the fee to an agent who assists a borrower?</p> <p>Agent fees will be paid by the lender out of the fees the lender receives from SBA. Agents may not collect fees from the borrower or be paid out of the PPP loan proceeds. The total amount that an agent may collect from the lender for assistance in preparing an application for a PPP loan (including referral to the lender) may not exceed:</p> <ul style="list-style-type: none"> i. One (1) percent for loans of not more than \$350,000; ii. 0.50 percent for loans of more than \$350,000 and less than \$2 million; and iii. 0.25 percent for loans of at least \$2 million. <p>The Act authorizes the Administrator to establish limits on agent fees. The Administrator, in consultation with the Secretary, determined that the agent fee limits set forth above are reasonable</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p><i>(Continued from previous page)</i></p>	<p>based upon the application requirements and the fees that lenders receive for making PPP loans.</p>	<p><i>(Continued from previous page)</i></p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(P)(iv) SENSE OF THE SENATE.—It is the sense of the Senate that the Administrator should issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 8(d)(3)(C)), women, and businesses in operation for less than 2 years.</p> <p>Note: This citation is the same as 637(d)(3)(C).</p>	<p>IFR1 Section III(2)m. Is the PPP “first-come, first-served?”</p> <p>Yes.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(a)(2)(Q) DUPLICATION.—Nothing in this paragraph shall prohibit a recipient of an economic injury disaster loan made under subsection (b)(2) during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available that is for a purpose other than paying payroll costs and other obligations described in subparagraph (F) from receiving assistance under this paragraph.</p> <p>Section 1102(a)(2)(R) WAIVER OF PREPAYMENT PENALTY.—Notwithstanding any other provision of law, there shall be no prepayment penalty for any payment made on a covered loan.”.</p>	<p>IFR1 Section III(2)(r)vii. How can PPP loans be used?</p> <p>Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020. If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>

CARES Act Requirement	Interim Final Rule	Related Frequently Asked Questions
<p>Section 1102(b) COMMITMENTS FOR 7(A) LOANS.—During the period beginning on February 15, 2020 and ending on June 30, 2020— (1) the amount authorized for commitments for general business loans authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), including loans made under paragraph (36) of such section, as added by subsection (a), shall be \$349,000,000,000; and</p>	<p>IFR1 Section III.(1) General- SBA is authorized to guarantee loans under the PPP through June 30, 2020. Congress authorized a program level of \$349,000,000,000 to provide guaranteed loans under this new 7(a) program.</p>	<p>We did not identify any FAQ that related directly to this requirement.</p>