



## Small Business Administration (SBA) Issues Rules for Paycheck Protection Program (PPP)

The Small Business Administration (SBA) has issued [Interim Final Rules \(IFR\)](#) regarding the Paycheck Protection Program (PPP).

We are happy to report that the IFR provides additional flexibility regarding the documentation that will be needed to establish a company's eligibility for a PPP loan. Specifically, it states that the company "must submit such documentation as is necessary to establish *eligibility such as payroll processor records, [or] payroll tax filings...*" Moreover, the IFR goes on to state, "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." Accordingly, PPP lenders should accept payroll reports provided by PEOs in support of their client company's PPP application.

Elsewhere in the IFR it also expressly states that "[e]ach lender's underwriting obligation under the PPP is limited to effectively

- (i) confirming receipt of the applicant's certifications,
- (ii) confirming receipt of information demonstrating the applicant was a going concern on or around February 15, 2020, and
- (iii) confirming the dollar amount of average monthly payroll costs for the preceding year "by reviewing the payroll documentation submitted with the borrower's application." In other words, PPP lenders' ability to request documentation outside of items strictly necessary to confirm payroll is very limited.

The IFR also provides that a lender may rely on a borrower's attestation and supporting documentation with respect to amounts for which the borrower seeks loan forgiveness. This should ease the process for client employers in seeking and obtaining loan forgiveness.

However, one aspect of the IFR that remains under review is a provision of the IFR that appears at odds with the expanded documentation requirements outlined above. This provision states that the PPP loan application must provide an attestation by the applicant that the "tax documents I have submitted" are "identical to those submitted" to the IRS. Given the expanded documentation that is otherwise permitted by the IFR for purposes of the application, the phrasing of the required attestation appears unduly narrow and inconsistent with the other provisions of the IFR as described above. We are hoping that this is a simple ambiguity caused by the unprecedented pace of lawmaking during the COVID-19 crisis, and we will continue to seek clarification on this point.

Two final things: It is our strong recommendation that clients work with their existing banks. Secondly, we have a letter for you to use, which briefly describes the PEO relationship and assures the lender that the PEO will be providing the necessary wage information. [View the letter here.](#)

*We are continuing to review the IFR and will follow up with more analysis as needed.*

**Source: National Association of Professional Employer Organizations**