

Updated Paycheck Protection Program Rules

As you may be aware, in order to qualify for loan forgiveness, Paycheck Protection Program loans must meet the following U.S. Treasury and Small Business Administration standards (among other requirements).

- 1) Certification that the business is suffering economic uncertainty due to the pandemic.
- 2) A **minimum** of 75% of the loan funds must be used for payroll costs (the maximum annual salary for any employee is capped by law at \$100,000).
- 3) **No more than** 25% of the loan funds may be used for specified non-payroll costs, including mortgage interest, rent and utilities.
- 4) Loan forgiveness will be reduced if you decrease your full-time employee headcount.
- 5) Loan forgiveness will be reduced if you decrease salaries and wages by more than 25% for any employee who made less than \$100,000 annualized in 2019. This could change with subsequent guidance.
- 6) You have until June 30, 2020, to restore your full-time employment and salary levels for any changes made between February 15, 2020, and April 26, 2020. This could change with subsequent guidance.

Recently, several large, publicly traded companies returned their Paycheck Protection Program loans because they did not actually meet these qualifications. On April 24, 2020, the SBA released an interim final rule with language applicable for ALL Paycheck Protection Program loan recipients who are concerned their loan may not qualify for forgiveness based on the standards listed above. It reads:

5. Limited Safe Harbor with Respect to Certification Concerning Need for PPP Loan Request

*Consistent with section 1102 of the CARES Act, the Borrower Application Form requires PPP applicants to certify that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” **Any borrower that applied for a PPP loan prior to the issuance of this regulation and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.** The Administrator, in consultation with the Secretary, determined that this safe harbor is necessary and appropriate to ensure that borrowers promptly repay PPP loan funds that the borrower obtained based on a misunderstanding or misapplication of the required certification standard.*

This information is current as of today and is subject to change. More guidance is expected from the SBA related to loan forgiveness. As your bank, we felt obligated to share this update with you to ensure you are able to make informed decisions for your business.

If you have questions or concerns about your loan, please do not hesitate to contact us at any number listed below.



CARES Act Small Business Loan Information and Guide

Important information and Instructions for Small Business Owners pertaining to the Small Business Interruption Loans made available under the Coronavirus Aid, Relief and Economic Security Act. These loans have been referred to as the Paycheck Protection Program (“PPP”).

BACKGROUND:

The Coronavirus Aid, Relief and Economic Security (“CARES”) Act was signed into law on Friday, March 27, 2020. Provisions of this bill include an allocation to the Small Business Administration to guarantee loans to small businesses which have forgiveness provisions for businesses that retain employees for a specified time period. The Treasury/SBA continue to develop details of these loan programs and new guidance has been issued almost daily since early April 2020. The Callaway Bank is an authorized lender working with the Small Business Administration to provide these loans. This provides local businesses with the opportunity to access this federal loan program through a local financial institution.

ELIGIBILITY:

Most Businesses – including nonprofits, sole proprietorships, self-employed individuals and independent contractors - with 500 or fewer employees are eligible. The business does not have to be shut down completely or partially; however, you must have been in operation on 2/15/20 with employees, which can include the self-employed owner or independent contractor. There are some qualifiers that will make a business ineligible, including default on an SBA or other federal guaranteed loan, engaged in any federally illegal activity, or owners with convictions, indictments, or criminal charges pending. Household employers are not eligible. If you are uncertain whether the ineligibility conditions apply to your business, please ask us.

Any business that applies understands that submission of a loan application does not guarantee the loan will be approved, or that funding will be available. The SBA is responsible for the approval of a requested loan and The Callaway Bank is acting as an agent in good faith on behalf of the SBA. Additionally, an approved loan may or may not qualify for forgiveness. If some or all of the approved loan does not qualify for forgiveness, the remainder must be repaid.

APPLICATION PROCEDURES:

Eligible businesses may apply directly with The Callaway Bank beginning April 3, 2020, for small businesses and April 10, 2020, for independent contractors and self-employed individuals. The application form is available on our website under the “COVID-19” tab or callawaybank.com/coronavirus. The Callaway Bank

will do its best to process your application timely and accurately, however, we have no control over the SBA systems or delays in their approval process.

In preparing to submit an application, there is certain information which you will need, and we highly advise assembling this information now. The first round of funding for the PPP was depleted on April 16, 2020, but it is expected another round of funding may become available soon; it is believed this additional funding will also be depleted quickly. Details on supporting information you will need are provided in this document. Applications must be submitted with all required documentation by June 30, 2020, but we advise you to submit your application soon. Additional information may be required later to request forgiveness.

Please see below for a helpful checklist of what you will need to complete an application.

LOAN AMOUNT:

The maximum loan you can receive will equal 2.5 times your average monthly payroll costs. If you took out an SBA “disaster loan” (EIDL) on or after January 31, 2020, then your loan amount can be increased to include refinancing of this disaster loan, however, you are permitted to net out the “EIDL advance” portion that is considered a grant. Maximum loan amount is \$10,000,000. You are responsible for determining the business’ requested loan amount. “Payroll costs” are defined very broadly and include:

- (A) Employee salaries, wages, commissions, cash tips, etc. up to \$100,000 per year per employee.
- (B) Payment for vacation, parental, family, medical or sick leave.
- (C) Severance payments.
- (D) Group health insurance.
- (E) Retirement plan contributions.
- (F) State and local taxes assessed on such compensation; and
- (G) For a self-employed or independent contractor who applies, “payroll” is considered to be the net earnings from self-employment subject to the \$100,000 annualized cap.

Payroll costs do not include:

- (A) Compensation over \$100,000 per year (\$8,333.33 per month).
- (B) Federal tax withholdings including FICA, Railroad Retirement Act, and income taxes withheld.
- (C) Compensation for non-US residents.
- (D) Sick leave and family leave provided by the new Families First Coronavirus Response Act for which there are already tax credits.
- (E) Payments to independent contractors

USE OF FUNDS:

The loan proceeds can be used for specific overhead expenses which includes:

- (A) Payroll costs (please refer to definition in this document under “LOAN AMOUNT”), including owner compensation for self-employed and independent contractors.
- (B) Payments of interest (not principal) on business mortgage obligations incurred prior to February 15, 2020.
- (C) Rent under business lease obligations in force prior to February 15, 2020, and
- (D) Business utilities, for which services began prior to February 15, 2020.
- (E) Payments of interest (not principal) on other business debt obligations incurred prior to February 15, 2020, although such amounts are not eligible for forgiveness.

For self-employed and independent contractors, you must have claimed or be entitled to claim a deduction for such expenses on your 2019 Form 1040 Schedule C for them to be a permissible use during the eight-week period following the first disbursement of the loan (the “covered period”). For example, if you did not claim or are not entitled to claim utilities expenses on your 2019 Form 1040 Schedule C, you cannot use the proceeds for utilities during the covered period.

INFORMATION YOU WILL NEED:

To substantiate your requested loan amount, which is 2.5 times your average monthly payroll costs, you will need to provide the following documentation with your application:

- (A) Payroll or other records documenting employment as of 2/15/20
- (B) Payroll or other records to support your calculation of “average monthly payroll costs”, such as payroll registers, tax filings, or income statements.
- (C) Documentation necessary for the bank to comply with the Bank Secrecy Act, such as corporate documents and personal identification.
- (D) For self-employed and independent contractors, you must provide your 2019 Schedule C, even if you have not filed your tax return with the IRS yet.

You are responsible for providing accurate information to support your request.

REPAYMENT TERMS:

Details on the exact repayment terms are still pending. All loans will be identically structured in terms of rate and repayment. The initial payment will be deferred for six months with interest accruing during that time. The loans are expected to have an interest rate as low as 1.0% and will be due in two years, however, your final terms will be confirmed in the loan documents you sign. There are no prepayment penalties or fees for borrowers who wish to accelerate payments on the loan. We will not charge you, the borrower, any loan fees to obtain this loan. Terms may be changed by the Treasury Department and SBA.

ADDITIONAL PROVISIONS OF THE LOAN:

No collateral will be required and there is no personal guarantee requirement. However, if the proceeds are used for fraudulent purposes the U.S. Government will pursue criminal charges against you.

LOAN FORGIVENESS:

A unique aspect of this loan program is that it may provide partial or full loan forgiveness for certain expenses which are incurred for an eight-week period beginning from the funding of the loan. The amount of loan forgiveness will equal the sum over that period of time of the allowed expenses, with certain limitations, and would include accrued interest. Allowed expenses include:

- (A) Payroll costs (please refer to definition in this document under “LOAN AMOUNT”), including owner compensation for self-employed and independent contractors.
- (B) Payments of interest (not principal) on business mortgage obligations incurred prior to February 15, 2020 to the extent they are deductible on Schedule C.
- (C) Rent under business lease obligations in force prior to February 15, 2020, to the extent they are deductible on Schedule C.
- (D) Business utilities, for which services began prior to February 15, 2020 to the extent they are deductible on Schedule C.

However, at least 75% of the loan proceeds must be used for payroll costs, and not more than 25% of the forgiven amount may be for non-payroll costs (items B, C and D). Borrowers should be prepared for that additional condition, as it may result in non-forgiveness. Additional guidance on forgiveness will be issued by the Treasury and SBA at a later date.

Also, if you have already laid off or furloughed certain employees and you rehire them by June 30, 2020, then you will get loan forgiveness credit for those employees. This also applies to employees who took pay cuts if you have restored their salaries by June 30, 2020. Details on meeting these conditions will be available at a later date from Treasury/SBA.

DOCUMENTING LOAN FORGIVENESS:

The borrower will have to show evidence that it actually spent money on the things that are eligible for loan forgiveness. Exactly how this will be done is still to be determined, but it is reasonable to expect that this will involve a follow-up application to The Callaway Bank for loan forgiveness which may include the following:

- (A) Documentation supporting actual expenditure on payroll costs for the 8-week period following the loan
- (B) Documentation, including cancelled checks, payment receipts, accounting reports, etc. verifying payments on mortgage interest, rent and utility payments.
- (C) Certification from an officer or owner of the borrower that the information being submitted is true and that the amount for which forgiveness is being requested was used to retain employees, and make business payments on mortgage, rent and utility payments.

OTHER THINGS TO KNOW:

Borrowers will need to make a “good faith certification” to the following which is contained within the Loan Application:

- (A) Current economic uncertainty makes the loan necessary to support your ongoing operations.
- (B) The funds will only be used for permitted purposes under the loan program, such as payroll, mortgage interest, rental or lease payments, and utility payments.
- (C) You have not and will not receive another loan under this program.
- (D) All of the information you provided in your application and in all supporting documents and forms is true and accurate.
- (E) Knowingly making a false statement to obtain loan funds under this program is criminally punishable by law.
- (F) You affirm that the tax documents provided to us are identical to the documents you submitted to the Internal Revenue Service.
- (G) You understand, acknowledge and agree that The Callaway Bank can share the tax information with SBA’s authorized representatives, including authorized representatives of the SBA Office of Inspector General for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

IMPORTANT INFORMATION:

If you have applied for or received the SBA Economic Impact Disaster Loan Program (EIDL), it can be refinanced into the Paycheck Protection Plan subject to limitations. If you have laid off or furloughed your staff so that they can get unemployment, you can still apply for the Paycheck Protection Program in order to rehire or reinstate hours.

REQUIRED DOCUMENTATION CHECKLIST:

In order to complete your application, you will need to provide The Callaway Bank with the following documentation. Please note that it is the SBA who issues guidelines for loan documentation, and that this list is subject to change. This information can be used as a checklist to ensure that you have the required documents. Understand that this list is based upon the latest information available and The Callaway Bank reserves the right to request additional information as necessary to ensure compliance with the program.

- (A) Fully completed and executed PPP loan application (available on our website)
- (B) Completed COVID-19 Stimulus Customer Agreement
- (C) Payroll or other records documenting employment as of 2/15/20
- (D) Payroll or other records to support your calculation of “average monthly payroll costs”, such as payroll registers, tax filings, or income statements. For self-employed and independent contractors, owner compensation is calculated using 2019 Schedule C, regardless of whether you have filed with the IRS.
- (E) Documentation necessary for the bank to comply with the Bank Secrecy Act, such as corporate documents and personal identification, if requested by the Bank.

OUR MESSAGE TO YOU:

We recognize that these are unprecedented times which are highly stressful for everyone. As your local

community bank, it is our intention to provide everything that we reasonably can to guide you and assist you through the current situation. To assist you in analyzing this loan opportunity and preparing your documents we have developed a PPP Calculation Tool which is available on our website under the “COVID-19” tab. Please understand that many aspects of this program, and other government programs, are still in development and we are using all of our resources to remain informed as a resource to you. There is a lot of information being floated around in the media and on social media pages which can be deceptive or untrue. Always consider the source of the information you are depending on and feel free to reach out to us if you have any questions or concerns. We also encourage you to check our website for updated information.

Small business is our business and we are here to do everything we can to help you through this current situation.

DISCLAIMER:

The information contained in this document is based on the most recent and reliable information available to us and The Callaway Bank makes no representation as to its accuracy or dependability.

Updated 4/25/20.

COVID-19 STIMULUS CUSTOMER AGREEMENT

In using the services of The Callaway Bank (“Bank”), to submit a Small Business Interruption Loan Application to the Small Business Administration (“SBA”) under the Cares Act, _____

(“ CLIENT “) understands and agrees:

1. Client is responsible for instructing Bank regarding the amount of the loan for which Client wishes to apply.
2. Client is responsible for supporting the requested loan amount with client’s own documentation, information and the accuracy of which is Client’s sole responsibility.
3. Client understands that submission of a loan application does not guarantee that the SBA will approve or make the requested loan.
4. Client understands that the requested loan, if approved by the SBA, may or may not qualify for forgiveness.
5. Client understands that if the requested loan does not qualify for forgiveness, Client must repay the loan, under the terms contained in the loan documents.
6. Client understands and agrees that Bank is not liable for delays in transmission of the application or for any failure by the SBA to receive the Application.
7. Client understands and agrees that Bank is not responsible for SBA’s approval or disapproval of the Application.
8. Client releases Bank from any claims arising out of Bank’s submission of Client’s Application to the SBA.
9. If Client is not an individual, signing agent for Client warrants and represents that he/she is duly authorized and empowered to execute this document, the related Loan Application and Promissory Note, and any other documents in connection with the loan contemplated by this Agreement.

Name

Signature

Date



Member FDIC



Paycheck Protection Program Borrower Application Form

OMB Control No.: 3245-0407
Expiration Date: 09/30/2020

Check One:	<input type="checkbox"/> Sole proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corp <input type="checkbox"/> S-Corp <input type="checkbox"/> LLC <input type="checkbox"/> Independent contractor <input type="checkbox"/> Eligible self-employed individual <input type="checkbox"/> 501(c)(3) nonprofit <input type="checkbox"/> 501(c)(19) veterans organization <input type="checkbox"/> Tribal business (sec. 31(b)(2)(C) of Small Business Act) <input type="checkbox"/> Other	DBA or Tradename if Applicable	
Business Legal Name			
Business Address			
		Business TIN (EIN, SSN)	Business Phone
			() -
		Primary Contact	Email Address

Average Monthly Payroll:	\$	x 2.5 + EIDL, Net of Advance (if Applicable) Equals Loan Request:	\$	Number of Employees:	
Purpose of the loan (select more than one):					
<input type="checkbox"/> Payroll <input type="checkbox"/> Lease / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain): _____					

Applicant Ownership

List all owners of 20% or more of the equity of the Applicant. Attach a separate sheet if necessary.

If questions (1) or (2) below are answered "Yes," the loan will not be approved.

Question	Yes	No
1. Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Applicant received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input type="checkbox"/>

If questions (5) or (6) are answered "Yes," the loan will not be approved.

Question	Yes	No
5. Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole? Initial here to confirm your response to question 5 → _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 5 years, for any felony, has the Applicant (if an individual) or any owner of the Applicant 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; 4) been placed on pretrial diversion; or 5) been placed on any form of parole or probation (including probation before judgment)? Initial here to confirm your response to question 6 → _____	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the United States the principal place of residence for all employees of the Applicant included in the Applicant's payroll calculation above?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the Applicant a franchise that is listed in the SBA's Franchise Directory?	<input type="checkbox"/>	<input type="checkbox"/>



Paycheck Protection Program Borrower Application Form

By Signing Below, You Make the Following Representations, Authorizations, and Certifications

CERTIFICATIONS AND AUTHORIZATIONS

I certify that:

- I have read the statements included in this form, including the Statements Required by Law and Executive Orders, and I understand them.
- The Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the Paycheck Protection Program Rule).
- The Applicant (1) is an independent contractor, eligible self-employed individual, or sole proprietor or (2) employs no more than the greater of 500 or employees or, if applicable, the size standard in number of employees established by the SBA in 13 C.F.R. 121.201 for the Applicant's industry.
- I will comply, whenever applicable, with the civil rights and other limitations in this form.
- All SBA loan proceeds will be used only for business-related purposes as specified in the loan application and consistent with the Paycheck Protection Program Rule.
- To the extent feasible, I will purchase only American-made equipment and products.
- The Applicant is not engaged in any activity that is illegal under federal, state or local law.
- Any loan received by the Applicant under Section 7(b)(2) of the Small Business Act between January 31, 2020 and April 3, 2020 was for a purpose other than paying payroll costs and other allowable uses loans under the Paycheck Protection Program Rule.

For Applicants who are individuals: I authorize the SBA to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for programs authorized by the Small Business Act, as amended.

CERTIFICATIONS

The authorized representative of the Applicant must certify in good faith to all of the below by **initialing** next to each one:

_____ 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 Form(s) 1099-MISC.

_____ Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

_____ The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; 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.

_____ The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.

_____ I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs.

_____ 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 the Paycheck Protection Program.

_____ I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

_____ I acknowledge that the lender will confirm the eligible loan amount using required documents submitted. I understand, acknowledge and agree that the Lender can share any tax information that I have provided with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

Signature of Authorized Representative of Applicant

Date

Print Name

Title



Paycheck Protection Program Borrower Application Form

Purpose of this form:

This form is to be completed by the authorized representative of the Applicant and *submitted to your SBA Participating Lender*. Submission of the requested information is required to make a determination regarding eligibility for financial assistance. Failure to submit the information would affect that determination.

Instructions for completing this form:

With respect to “purpose of the loan,” 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, wage, commissions, income, or net earnings from self-employment or similar compensation.

For purposes of calculating “Average Monthly Payroll,” most Applicants will use the average monthly payroll for 2019, excluding costs over \$100,000 on an annualized basis for each employee. For seasonal businesses, the Applicant may elect to instead use average monthly payroll for the time period between February 15, 2019 and June 30, 2019, excluding costs over \$100,000 on an annualized basis for each employee. For new businesses, average monthly payroll may be calculated using the time period from January 1, 2020 to February 29, 2020, excluding costs over \$100,000 on an annualized basis for each employee.

If Applicant is refinancing an Economic Injury Disaster Loan (EIDL): Add the outstanding amount of an EIDL made between January 31, 2020 and April 3, 2020, less the amount of any “advance” under an EIDL COVID-19 loan, to Loan Request as indicated on the form.

All parties listed below are considered owners of the Applicant as defined in 13 CFR § 120.10, as well as “principals”:

- For a sole proprietorship, the sole proprietor;
- For a partnership, all general partners, and all limited partners owning 20% or more of the equity of the firm;
- For a corporation, all owners of 20% or more of the corporation;
- For limited liability companies, all members owning 20% or more of the company; and
- Any Trustor (if the Applicant is owned by a trust).

Paperwork Reduction Act – You are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. The estimated time for completing this application, including gathering data needed, is 8 minutes. Comments about this time or the information requested should be sent to : Small Business Administration, Director, Records Management Division, 409 3rd St., SW, Washington DC 20416., and/or SBA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington DC 20503.

Privacy Act (5 U.S.C. 552a) – Under the provisions of the Privacy Act, you are not required to provide your social security number. Failure to provide your social security number may not affect any right, benefit or privilege to which you are entitled. (But see Debt Collection Notice regarding taxpayer identification number below.) Disclosures of name and other personal identifiers are required to provide SBA with sufficient information to make a character determination. When evaluating character, SBA considers the person’s integrity, candor, and disposition toward criminal actions. Additionally, SBA is specifically authorized to verify your criminal history, or lack thereof, pursuant to section 7(a)(1)(B), 15 USC Section 636(a)(1)(B) of the Small Business Act (the Act).

Disclosure of Information – Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act. The Privacy Act authorizes SBA to make certain “routine uses” of information protected by that Act. One such routine use is the disclosure of information maintained in SBA’s system of records when this information indicates a violation or potential violation of law, whether civil, criminal, or administrative in nature. Specifically, SBA may refer the information to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility for, or otherwise involved in investigation, prosecution, enforcement or prevention of such violations. Another routine use is disclosure to other Federal agencies conducting background checks but only to the extent the information is relevant to the requesting agencies’ function. See, 74 F.R. 14890 (2009), and as amended from time to time for additional background and other routine uses. In addition, the CARES Act, requires SBA to register every loan made under the Paycheck Protection Act using the Taxpayer Identification Number (TIN) assigned to the borrower.

Debt Collection Act of 1982, Deficit Reduction Act of 1984 (31 U.S.C. 3701 et seq. and other titles) – SBA must obtain your taxpayer identification number when you apply for a loan. If you receive a loan, and do not make payments as they come due, SBA may: (1) report the status of your loan(s) to credit bureaus, (2) hire a collection agency to collect your loan, (3) offset your income tax refund or other amounts due to you from the Federal Government, (4) suspend or debar you or your company from doing business with the Federal Government, (5) refer your loan to the Department of Justice, or (6) foreclose on collateral or take other action permitted in the loan instruments.

Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) – The Right to Financial Privacy Act of 1978, grants SBA access rights to financial records held by financial institutions that are or have been doing business with you or your business including any financial



Paycheck Protection Program Borrower Application Form

institutions participating in a loan or loan guaranty. SBA is only required provide a certificate of its compliance with the Act to a financial institution in connection with its first request for access to your financial records. SBA's access rights continue for the term of any approved loan guaranty agreement. SBA is also authorized to transfer to another Government authority any financial records concerning an approved loan or loan guarantee, as necessary to process, service or foreclose on a loan guaranty or collect on a defaulted loan guaranty.

Freedom of Information Act (5 U.S.C. 552) – Subject to certain exceptions, SBA must supply information reflected in agency files and records to a person requesting it. Information about approved loans that will be automatically released includes, among other things, statistics on our loan programs (individual borrowers are not identified in the statistics) and other information such as the names of the borrowers (and their officers, directors, stockholders or partners), the collateral pledged to secure the loan, the amount of the loan, its purpose in general terms and the maturity. Proprietary data on a borrower would not routinely be made available to third parties. All requests under this Act are to be addressed to the nearest SBA office and be identified as a Freedom of Information request.

Occupational Safety and Health Act (15 U.S.C. 651 et seq.) – The Occupational Safety and Health Administration (OSHA) can require businesses to modify facilities and procedures to protect employees. Businesses that do not comply may be fined, forced to cease operations, or prevented from starting operations. Signing this form is certification that the applicant, to the best of its knowledge, is in compliance with the applicable OSHA requirements, and will remain in compliance during the life of the loan.

Civil Rights (13 C.F.R. 112, 113, 117) – All businesses receiving SBA financial assistance must agree not to discriminate in any business practice, including employment practices and services to the public on the basis of categories cited in 13 C.F.R., Parts 112, 113, and 117 of SBA Regulations. All borrowers must display the "Equal Employment Opportunity Poster" prescribed by SBA.

Equal Credit Opportunity Act (15 U.S.C. 1691) – Creditors are prohibited from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

Debarment and Suspension Executive Order 12549; (2 CFR Part 180 and Part 2700) – By submitting this loan application, you certify that neither the Applicant or any owner of the Applicant have within the past three years been: (a) debarred, suspended, declared ineligible or voluntarily excluded from participation in a transaction by any Federal Agency; (b) formally proposed for debarment, with a final determination still pending; (c) indicted, convicted, or had a civil judgment rendered against you for any of the offenses listed in the regulations or (d) delinquent on any amounts owed to the U.S. Government or its instrumentalities as of the date of execution of this certification.