



A close-up photograph of a computer keyboard with a custom blue key that reads "PPP Paycheck Protection Program" in white text. The background is a blurred blue and white.

## Paycheck Protection Program

*So you've retained funds provided under the SBA Paycheck Protection Program in the CARES Act. What next? We've compiled here a checklist to maintain your compliance with the program's conditions and reduce the risk of audit issues, government investigations and potential civil liability.*

### Segregate funding received under the Paycheck Protection Program

- Consider maintaining the proceeds from the PPP loan in a separate bank account than accounts used for non-COVID-19 relief purposes. This will instill discipline in using the funds only for qualified purposes. Although a separate account is not required under the law, it will make responding to any subsequent audit or government investigation, if one occurs, that much less painful and will also demonstrate strong compliance in using and accounting for the funds.
- The government has made clear that any company that receives a loan of more than \$2 million will be audited, and proper segregation and accounting will aid in the audit process.

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**Educate, educate, educate: These funds are to be used primarily for payroll costs. Additionally, up to 25% of the loan may be used to cover mortgage interest, rent, utilities and interest on pre-existing loans. Use of proceeds from a PPP loan to cover anything other than payroll costs, mortgage interest, rent, utilities, and interest on pre-existing loans is strictly prohibited.**

- Develop or commission trainings that capture this message, ensure your trainers are communicating this message clearly, mandate training for the right employee populations, and check that your employees really get it.
- Create or revise policies that may touch on this funding. For many, that will include creating a written policy delineating what the funds can and cannot be used for. In addition, policies surrounding audit and records documentation, among others, likely need updating to specifically address this new funding.
- A well-informed work force is also more likely to identify and raise any potential concerns internally, which aids your ability to remediate issues. Create mechanisms for employees to do so, including by anonymous reporting. In addition to quickly surfacing compliance concerns, employees that feel empowered to raise concerns are less likely to become whistleblowers.

### Document your decisions about the use of funding received under the PPP

- Involve key constituents in determining how you are using this funding. Key constituents might include management, Board members, internal control functions like Compliance and Audit, finance, and external advisors.

- Document those decisions and continue to ask the question and document the use and relation to the funding's purpose at each decision-point.

### Assess the general stead of your controls functions, including Compliance and Audit

- Is your program generally well-designed, implemented effectively, and working in practice? Now is a chance to return to first principles, to ensure that you have the structures in place to promote compliance and the mechanisms in place to foster it. For some, this might mean reviewing their key risks, which may now include receipt of this funding. For others, it might entail a review of controls in place to mitigate risk. Still others may need to put in place key structures, including dedicated controls functions, or may need to create new processes, including for the investigation of possible non-compliance and disciplinary sanctions for confirmed non-compliance.
- These steps help confirm your organization's commitment to compliance. That commitment must be manifest from the top-down and affirmed throughout the organization across your activities, and not simply confined to the use of these funds.

### What You Certified:

- Neither you, nor any owner(s), have obtained an SBA or other federal agency loan that is delinquent or has defaulted in the past seven years and caused a loss to the government
- Neither you, nor any individual holding more than 20% equity, is subject to criminal charges or within the last five years has been convicted or pled guilty to a felony
- You are eligible to receive funds under the SBA's current rules
- You are not engaged in any activity that is illegal under federal, state or local law
- You were in operation on February 15, 2020 and had employees for whom you paid salaries and payroll taxes or paid independent contractors
- Current economic uncertainty makes this loan request necessary to support ongoing operations
- 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
- You 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 the loan
- That the information you provided is accurate and that knowingly making a false statement to obtain a guaranteed loan from the SBA is punishable under the law

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