

LHA Webinar – April 23, 2020

SBA Funding Options under the CARES Act for Healthcare Providers

Q&A

Q: We submitted our SBA PPP loan application with our local SBA Lender and the SBA denied it because we are County Hospital and classified as a governmental entity. With the new PPP funding, should we resubmit our previous application or is our application in queue at SBA in case the County Hospital's funding opens up? Thank you!

A: The SBA released an additional interim rule this morning (April 24, 2020) that states government-owned hospitals can be eligible for PPP loans assuming they meet certain other eligibility requirements of the PPP and certain funding caps. I have included an excerpt from the interim final rule as follows:

2.c. Is a hospital owned by governmental entities eligible for a PPP loan?

A hospital that is otherwise eligible to receive a PPP loan as a business concern or nonprofit organization (described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code) shall not be rendered ineligible for a PPP loan due to ownership by a state or local government if the hospital receives less than 50% of its funding from state or local government sources, exclusive of Medicaid.

The Administrator, in consultation with the Secretary, determined that this exception to the general ineligibility of government-owned entities, 13 CFR 120.110(j), is appropriate to effectuate the purposes of the CARES Act.

Q: As a Hospital, what is the Revenue Standard? Is it Net Patient Revenue plus Other Operating Revenue?

A: The revenue size standard for NAICS 622110 – General Medical and Surgical Hospitals is \$41.5M. Currently, the SBA defines Annual Receipts for use in the revenue size standard determination as follows:

Annual receipts: This is the “total income” (or “gross income”) plus the “cost of goods sold.” These numbers can normally be found on the business’s IRS tax return forms. Receipts are averaged over a business’s latest three complete fiscal years or (except in the Business Loan and Disaster Loan Programs) five complete fiscal years to determine the average annual receipts. If a business hasn’t been in business for five years, multiply its average weekly revenue by 52 to determine its average annual receipts.

The SBA calculates annual receipts in accordance with 13 CFR 121.104.¹

¹ <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>

Q: Is it defined as to how the employee count will be defined for SBA loan forgiveness i.e. FTE calc, Head count, > 25% per employee reduction, etc.

A: Currently, the SBA defines the Employee Calculation as follows:

Employee calculation: This is the average number of people employed for each pay period over the business's latest 12 calendar months. Any person on the payroll must be included as one employee regardless of hours worked or temporary status. The number of employees of a concern in business less than 12 months is the average for each pay period that it has been in business.

The SBA calculates number of employees in accordance with 13 CFR 121.106.²

However, the SBA may release additional guidance that addresses the methodology of how to calculate the average number of employees. For now, our recommendation is to use the methodology from the definition provided above to determine the average number of employees during the 8-week covered period as well as for the two date options of comparison—(1) February 15, 2019 – June 30, 2019 or (2) January 1, 2020 – February 29, 2020—for the forgiveness calculation.

Q: When we applied for PPP and were funded, 1099-MISC wages were included. As a matter of fact, they (lender) insisted on us including our 1099. If I understand correctly we are to not include them. Can you clarify?

A: Based on guidance released by the SBA on April 2, 2020 in the First Interim Final Rule as well as guidance released by the SBA on April 14, 2020 in the Third Interim Final Rule, Form 1099-MISC compensation should not be included in “payroll costs” for the loan calculation nor the “payroll costs” for the forgiveness calculation, unless the applicant/borrower is a self-employed individual. Although your loan proceeds include this type of compensation, you may not include any Form 1099-MISC compensation in payroll costs for the 8-week covered period used in the forgiveness calculation.

² <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>