



MEMORANDUM

To: Utility & Transportation Contractors Association of New Jersey

From: Florio Perrucci Steinhardt Cappelli Tipton & Taylor LLC

Date: June 5, 2020

Re: Paycheck Protection Program Flexibility Act of 2020

The following memorandum summarizes notable changes to the CARES Act's Paycheck Protection Program ("PPP") implemented by the Paycheck Protection Program Flexibility Act of 2020 (the "Act"), which was signed into law by President Trump on June 5, 2020. Specifically, the Act implements the following changes:

1. Extension of PPP Loan Issuance Period

The Act extends the period during which PPP loans may be issued by lenders from June 30, 2020 to December 31, 2020.

2. Increase in Maturity for New PPP Loans

The Act increases the maturity of all new borrowers' PPP loans from 2 years to a minimum of 5 years. It further clarifies that, although the increased maturity provisions only apply to loans made after the date of enactment, pre-existing loans can be modified accordingly by way of mutual consent between borrowers and lenders.

3. Extension of Forgiveness Period

The Act extends the forgiveness period from the 8-week period following loan origination to the earlier of 24 weeks from loan origination or December 31, 2020.

4. Exemptions from Reductions in Forgiveness

The Act provides exemptions from reductions in forgiveness for employers who can document, in good faith:

- a. Their inability to rehire laid off or furloughed employees and their inability to hire similarly qualified individuals by December 31, 2020; or

- b. Their inability to return to their pre-COVID-19 level of business activity due compliance with federal guidelines related to sanitization, social distancing or other safety requirements related to COVID-19.

5. Change in Percentages of Payroll/Nonpayroll Costs for Forgiveness

The Act decreases the percentage of PPP loan proceeds that must be used on payroll costs and increases the percentage of PPP loan proceeds that may be used on nonpayroll costs from 75/25 to 60/40, respectively. In other words, borrowers will not be subjected to reduced forgiveness on their PPP loans, so long as they use at least 60% of their PPP loan proceeds on payroll costs.

6. Elimination of 6-Month Deferral Period

The Act eliminates the 6-month deferral of payments due under PPP loans and replaces it with deferral until the date on which the amount of loan forgiveness is remitted to the lender. If a borrower fails to apply for loan forgiveness within 10 months after the last day of the covered period for PPP loan forgiveness, the borrower must begin to make payments of principal, interest and fees on its PPP loan.

Please do not hesitate to contact me with any questions regarding this memorandum.

Sincerely,

Seth R. Tipton, Esq.