

PPP Loan Forgiveness Application Overview

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DISCLAIMER

THIS DOCUMENT IS A HIGH-LEVEL SUMMARY AND DISCUSSION OF PARTS OF THE PAYCHECK PROTECTION PROGRAM LOAN FORGIVENESS APPLICATION INSTRUCTIONS FOR BORROWERS RELEASED BY THE SMALL BUSINESS ADMINISTRATION ON MAY 15, 2020.

IN ITS PRESS RELEASE RELATED TO THE APPLICATION THE SBA STATES: **SBA WILL ALSO SOON ISSUE REGULATIONS AND GUIDANCE TO FURTHER ASSIST BORROWERS AS THEY COMPLETE THEIR APPLICATIONS, AND TO PROVIDE LENDERS WITH GUIDANCE ON THEIR RESPONSIBILITIES.**

ADDITIONALLY, LOAN FORGIVENESS APPLICATIONS WILL BE MADE TO YOUR LENDER AND THEY HAVE AUTHORITY TO ADMINISTER THE PPP. **IT WILL BE IMPORTANT TO COORDINATE LOAN FORGIVENESS CALCULATIONS WITH YOUR LENDER.**

THIS DOCUMENT SHOULD NOT BE USED AS A BASIS TO MAKE DECISIONS OR TAKE ACTIONS RELATED TO A PPP LOAN OR THE LOAN FORGIVENESS APPLICATION. BORROWERS SHOULD CONSULT THEIR OWN ADVISORS BEFORE MAKING ANY DECISIONS RELATED TO THESE MATTERS.

SBA Press Release 20-41 – May 15, 2020

Washington—Today, the Small Business Administration (SBA), in consultation with the Department of the Treasury, released the Paycheck Protection Program (PPP) Loan Forgiveness Application and detailed instructions for the application.

The form and instructions inform borrowers how to apply for forgiveness of their PPP loans, consistent with the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). **SBA will also soon issue regulations and guidance to further assist borrowers as they complete their applications, and to provide lenders with guidance on their responsibilities.**

The form and instructions include several measures to reduce compliance burdens and simplify the process for borrowers, including:

- Options for borrowers to calculate payroll costs using an “alternative payroll covered period” that aligns with borrowers’ regular payroll cycles
- Flexibility to include eligible payroll and non-payroll expenses paid or incurred during the eight-week period after receiving their PPP loan
- Step-by-step instructions on how to perform the calculations required by the CARES Act to confirm eligibility for loan forgiveness
- Borrower-friendly implementation of statutory exemptions from loan forgiveness reduction based on rehiring by June 30
- Addition of a new exemption from the loan forgiveness reduction for borrowers who have made a good-faith, written offer to rehire workers that was declined

The PPP was created by the CARES Act to provide forgivable loans to eligible small businesses to keep American workers on the payroll during the COVID-19 pandemic. The documents released today will help small businesses seek forgiveness at the conclusion of the eight week covered period, which begins with the disbursement of their loans.

Alternative Covered Period – Payroll Costs Only

Borrowers can elect to use the “Alternative Payroll Covered Period” for Payroll Costs.

- For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56-day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date (the “Alternative Payroll Covered Period”).
- Borrowers who elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in this application to “the Covered Period or the Alternative Payroll Covered Period.” However, Borrowers must apply the Covered Period (not the Alternative Payroll Covered Period) wherever there is a reference in this application to “the Covered Period” only.
- NOTE: Eligible Non-Payroll Costs are measured in the “Covered Period”



Eligible Payroll Costs

1. **Compensation** - The sum of gross salary, gross wages, gross tips, gross commissions, paid leave (vacation, family, medical or sick leave, not including leave covered by the Families First Coronavirus Response Act), and allowances for dismissal or separation paid or incurred during the Covered Period or the Alternative Payroll Covered Period.
 - For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period; therefore, do not enter more than \$15,385 for any individual employee.
2. **Health Insurance** - Employer contributions for employee health insurance, including employer contributions to a self-insured, employer-sponsored group health plan, but excluding any pre-tax or after tax contributions by employees.
3. **Retirement Contributions** - Employer contributions to employee retirement plans, excluding any pre-tax or after-tax contributions by employees.
4. **State & Local Taxes** - Employer state and local taxes assessed on employee compensation (e.g., state unemployment insurance tax); do not list any taxes withheld from employee earnings.

Calculating Eligible Payroll Costs

1. **Eligible Payroll Costs** - Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the eight-week (56-day) Covered Period (or Alternative Payroll Covered Period) (“payroll costs”).
2. **Line 1 Instructions** – Enter total eligible payroll costs incurred or paid during the Covered Period or the Alternative Covered Period.
 - Payroll costs are considered paid on the day that paychecks are distributed or the Borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee’s pay is earned.
 - Payroll costs incurred but not paid during the Borrower’s last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date.
 - Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period).
 - For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the covered period.
 - Count payroll costs that were both paid and incurred only once.

Eligible Non Payroll Costs

An eligible non payroll cost **must be paid during the Covered Period** or **incurred during the Covered Period and paid on or before the next regular billing date**, even if the billing date is after the Covered Period.

- **covered mortgage obligations:** payments of interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020 (“business mortgage interest payments”)
- **covered rent obligations:** business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020 (“business rent or lease payments”)
- **covered utility payments:** business payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020 (“business utility payments”)

Eligible non payroll costs cannot exceed 25% of the total forgiveness amount. Count non payroll costs that were both paid and incurred only once.

IFR April 20 - FR 21747 – Self-Employment

How can PPP loans be used by individuals with income from self-employment who file a 2019 Form 1040, Schedule C?

The proceeds of a PPP loan are to be used for the following for Non-Payroll costs:

- Mortgage interest payments (but not mortgage prepayments or principal payments) on any business mortgage obligation on real or personal property (e.g., the interest on your mortgage for the warehouse you purchased to store business equipment or the interest on an auto loan for a vehicle you use to perform your business)
- business rent payments (e.g., the warehouse where you store business equipment or the vehicle you use to perform your business)
- business utility payments (e.g., the cost of electricity in the warehouse you rent or gas you use driving your business vehicle).



Reduction in Forgiveness Based on Reduction in Number of FTEs

1. The average number of full time equivalent employees shall be determined by calculating the average number of full-time equivalent employees for each pay period falling within a month.
2. The amount of loan forgiveness shall be reduced, but not increased, by multiplying the amount of forgiveness by the ratio of the average number of full time equivalent employees per month employed during the covered period, divided by, at the election of the borrower, either:
 - The average number of full time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019, or
 - the average number of full time equivalent employees per month employed by the eligible recipient during the period beginning on January 1, 2020 and ending on February 29, 2020
 - for seasonal employers, the average number of full time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 through June 30 2019.

Calculating FTEs

Average FTE:

- For each employee, the average number of hours paid per week, **divide by 40**, and round the total to the nearest tenth. The maximum for each employee is **capped at 1.0**.
- A **simplified method** that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the Borrower.
- Must follow the same method that was used to calculate Average FTE during the Covered Period as compared to the reference period.
 - January 1, 2020 - February 29, 2020, or
 - February 15, 2019 - June 30, 2019
- FTE “Re-hire” June 30 safe harbor still applies

FTE Reduction Exceptions

FTE Reduction Exceptions:

1. Any positions for which the Borrower made a good-faith, written offer to rehire an employee during the Covered Period or the Alternative Payroll Covered Period which was rejected by the employee; and
2. Any employees who during the Covered Period or the Alternative Payroll Covered Period
 - (a) were fired for cause,
 - (b) voluntarily resigned, or
 - (c) voluntarily requested and received a reduction of their hours
3. These FTE reductions don't apply if the position was filled by a new employee
4. Any FTE reductions in these cases do not reduce the Borrower's loan forgiveness



Reduction in Forgiveness Relating to Salaries and Wages

1. The amount of loan forgiveness shall be reduced by the amount of any reduction in total salary or wages of any employee during the covered period (8 week period after the loan is made) that is in excess of 25% of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period.
2. An employee, for purposes of this section, is any employee who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000 or were not employed by the Borrower at any point in 2019.

Calculating Forgiveness Reduction Based on >25% Salary and Wage Reduction

- Salaries Workers – Per Employee Basis
 1. Calculate average annual salary during Covered Period or Alternative Covered Period
 2. Calculate average annual salary during Q1 2020
 3. If reduction < 25% - STOP
 4. If reduction > 25%
 5. Calculate amount of annual salary reduction > 25%
 6. Divide by 52 and multiply by 8 weeks

- Hourly Workers – Per Employee Basis
 1. Calculate average hourly wage during Covered Period or Alternative Covered Period
 2. Calculate average hourly wage during Q1 2020
 3. If reduction < 25% - STOP
 4. If reduction > 25%
 5. Calculate amount of hourly wage reduction > 25%
 6. Calculate the average weekly hours worked in Q1 2020
 7. Multiply hourly wage reduction >25% x average weekly hours worked in Q1 2020 x 8 weeks

- Salary and Wage June 30 safe harbor still applies

Loan Forgiveness Methodology

- Reduction in forgiveness for greater than 25% reduction in wages is applied against total payroll costs prior to applying the reduction in forgiveness related to reductions in FTEs

	Original			Instructions	
	Forgiveness	Loan		Forgiveness	Loan
PPP Loan	1,000			1,000	
Covered Period Costs	900	100		900	100
Eligible for Forgiveness	900			900	
Wage Reductions Greater than 25%	(50)	50		(50)	50
Subtotal				850	
Non-Retained FTEs 10%	(90)	90		(85)	85
Loan Forgiveness	760	240		765	235

Documents Borrowers Must Submit with its PPP Loan Forgiveness Application – Payroll

Payroll: Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period consisting of each of the following:

- a) Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- b) Tax forms (or equivalent third-party payroll service provider reports) for the periods that overlap with the Covered Period or the Alternative Payroll Covered Period:
 - Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
 - State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.
- c) Payment receipts, cancelled checks, or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans that the Borrower included in the forgiveness amount.

Documents Borrowers Must Submit with its PPP Loan Forgiveness Application – FTEs

FTE: Documentation showing (at the election of the Borrower):

- a) the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019;
- b) the average number of FTE employees on payroll per month employed by the Borrower between January 1, 2020 and February 29, 2020; or
- c) in the case of a seasonal employer, the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive twelve-week period between May 1, 2019 and September 15, 2019. (at the election of the Borrower)
- d) The average number of FTEs in the Covered Period or Alternative Covered Period

Documents may include payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941) and state quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.

Documents Borrowers Must Submit with its PPP Loan Forgiveness Application – Non Payroll

Non Payroll: Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- a) Business mortgage interest payments: Copy of lender amortization schedule and receipts or cancelled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and the months of the Covered Period through one month after the end of the Covered Period verifying interest amounts and eligible payments.
- b) Business rent or lease payments: Copy of current lease agreement and receipts or cancelled checks verifying eligible payments from the Covered Period; or lessor account statements from February 2020 and from the Covered Period through one month after the end of the Covered Period verifying eligible payments.
- c) Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments.

Documentation Borrower Must Maintain But Not Submit

PPP Schedule A Worksheet or its equivalent and the following:

- a. Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 1, including the “Salary/Hourly Wage Reduction” calculation, if necessary.
- b. Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 2; specifically, that each listed employee received during any single pay period in 2019 compensation at an annualized rate of more than \$100,000.
- c. Documentation regarding any employee job offers and refusals, firings for cause, voluntary resignations, and written requests by any employee for reductions in work schedule.
- d. Documentation supporting the PPP Schedule A Worksheet “FTE Reduction Safe Harbor.”

Documentation Borrower Must Maintain But Not Submit – Other

All records relating to the Borrower's PPP loan, including

- documentation submitted with its PPP loan application,
- **documentation supporting the Borrower's certifications as to the necessity of the loan request and its eligibility for a PPP loan,**
- documentation necessary to support the Borrower's loan forgiveness application, and
- documentation demonstrating the Borrower's material compliance with PPP requirements.

The Borrower must retain all such documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

Thanks for Your Time and Attention!

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KM Covid-19 Resource Center

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