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**The following information is based on Paycheck Protection Program Loan Forgiveness SBA Guidance as of August 4 and is subject to change.**

## PPP Forgiveness FAQ

### Which PPP Loan Forgiveness Form Do I Use?

1. For sole proprietors, independent contractors, or self-employed individuals with no employees and did not include any employee salaries in the original PPP loan application, complete the EZ form.
2. If the Borrower did not reduce annual salary or hourly wages of any employee (where “employee” counts only those employees with less than \$100,000 in annualized salary) by more than 25% (as compared to January 1st to March 31 levels); AND either:
  - a. The Borrower did not reduce the number of employees & average paid hours between January 1, 2020 to the end of the Borrower’s covered period. The Borrower should ignore reductions from the following sources:
    - i. Reductions due to a Borrower’s inability to rehire employees who were employed on February 15 if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020.
    - ii. Reductions where the employee refused an offer to restore their hours that were previously reduced from their February 15, 2020 level, or
  - b. The Borrower was unable to operate at the same level of business activity (compared to February 15, 2020) due to compliance with government issued guidance between March 1 and December 31. This guidance must be related to any work or customer safety requirement related to Covid-19.

Alternatively, Borrowers who do not fit into any of these boxes will use the standard Form 3058.

### What is forgivable?

#### Eligible payroll costs.

Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the 24-week (168-day) or eight-week (56-day) Covered Period (or Alternative Payroll Covered Period) (“payroll costs”). 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. For information on what qualifies as payroll costs, see Interim Final Rule on Paycheck Protection Program posted on April 2, 2020 (85 FR 20811), as amended by the Revisions to the First Interim Rule, posted on June 11, 2020. Include only payroll costs for employees whose principal place of business is in the United States.

## Eligible nonpayroll costs.

Nonpayroll costs eligible for forgiveness consist of:

- a) 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");
- b) 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"); and
- c) 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").
  - a. Note: Transportation only includes costs for transportation utility expenses, a tax scheme levied in some states or cities.

An eligible nonpayroll 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. Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount. Count nonpayroll costs that were both paid and incurred only once.

## How do I know how much of my PPP Loan will be forgiven?

The amount forgiven will be determined by the amount of eligible expenses you pay over the eight-week period following the date of loan disbursement, as well as the documentation provided of the eligible expenses.

A minimum of 60% of your total loan amount must go towards payroll costs. The remaining 40% should be used towards other forgivable purposes, such as rent, utilities, or mortgage interest.

## When does my covered period start?

The borrower can elect either the PPP loan disbursement date as the start of their covered period or the Alternative Payroll Covered Period if they qualify. A borrower qualifies for the Alternative Payroll Covered Period if they have a payroll cycle that is bi-weekly or more frequent. If the borrower qualifies and elects to use the Alternative Payroll Covered Period, the start of the borrower's Covered Period will begin on the first day of the first payroll cycle in the covered period.

Treasury/SBA acknowledge that the 8-week covered period may not align with the borrower's payroll cycle, so they are allowing the borrower to elect to use this alternative payroll covered period when borrower has a bi-weekly or more frequent payroll cycle.

## Are payroll costs for expenses actually paid during the 24-week or eight-week period, or can they be used for payroll costs incurred but not yet paid? (cash vs. accrual method)

Borrowers are generally eligible for forgiveness for both payroll costs paid and payroll costs incurred during the 24-week or eight-week Covered Period. Payroll costs are considered paid on the day that paychecks are distributed, or the Borrower originates an ACH credit transaction, while 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 are eligible for forgiveness if paid on or before the next regular payroll date.

Payroll costs incurred before the covered period but paid during the covered period are forgivable.

## Are we required to immediately bring back previously laid off employees? What about for employees who refuse to come back to work due to compromised status?

You are not restricted by the CARES Act from delaying bringing employees back to work, but it may impact the amount of loan forgiveness. The Loan Forgiveness Application calculates FTEs for loan forgiveness for the period immediately following funding of the loan. Failure to fill open positions may limit an employer's ability to reach the minimum 60% threshold for payroll costs, which can also reduce the forgivable loan amount.

There is also nothing prohibiting employers from hiring additional employees over the number used in calculating loan amount in the original loan application. Employers should fill any open positions as soon as possible to avoid a reduction in loan forgiveness. Employers may also continue paying employees who are not actively working, at a minimum of 60% of their regular salary or hourly wages in order to avoid a reduction.

### **I laid off or reduced salaries for some employees before applying for the PPP Loan. Can I rehire or increase pay for those employees?**

Yes, in calculating its loan forgiveness amount, a borrower may exclude any reduction in FTE employees if the borrower is able to document in good faith the following: (1) an inability to rehire individuals who were employees of the borrower on February 15, 2020 and (2) an inability to hire similarly qualified individuals for unfilled positions on or before December 31, 2020. Borrowers are required to inform the applicable state unemployment insurance office of any employee's rejected rehire offer within 30 days of the employee's rejection of the offer. The documents that borrowers should maintain to show compliance with this exemption include the written offer to rehire an individual, a written record of the offer's rejection, and a written record of efforts to hire a similarly qualified individual.

### **Do I have to bring back the total number of employees or just pay 60% of the PPP Loan towards payroll regardless of the number of employees or hours?**

The Loan Forgiveness Application looks at the average total number of FTEs over either the 24 or eight-week covered period as well as total payroll costs. However, in certain circumstances, you can get FTE credit during the covered period for FTEs who are not actively working, so long as those employees still received at least 75% of their regular pay. See PPP Schedule A Worksheet, Table 1 on the Loan Forgiveness Application.

Unfortunately, there are too many moving parts related to FTEs and reduction in salary or hourly rate to be able to provide a clear answer. Remember that a minimum of 60% of loan amount must go towards payroll costs to avoid a reduction in loan forgiveness; however, reductions in forgiveness may apply for any reductions in FTE or compensation.

### **What are the Safe Harbors and exemptions for FTE reductions?**

Any FTE reductions that fall into any one of these cases do not reduce the Borrower's loan forgiveness:

1. If both of the following conditions are met:
  - a. the Borrower reduced its FTE employee levels in the period beginning February 15, 2020, and ending April 26, 2020; and
  - b. the Borrower then restored its FTE employee levels by not later than December 31, 2020 to its FTE employee levels in the Borrower's pay period that included February 15, 2020.
2. Any positions for which the Borrower made a good-faith, written offer to rehire an individual who has an employee on February 15, 2020 and the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020 and the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020.
3. Any positions for which the Borrower made a good-faith, written offer to restore any reduction in hours, at the same salary or wages, during the Covered Period or the Alternative Covered Period, and the employee rejected the offer.
4. Any employees who during the Covered Period or Alternative Covered Period
  - a. Were fired for cause,
  - b. Voluntarily resigned, or
  - c. Voluntarily requested and received a reduction of their hours
5. If the Borrower, in good faith, is able to document that it was unable to operate between February 15, 2020, and the end of the Covered Period at the same level of business activity as before February 15, 2020, by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

In all of the above, include FTE as if you had that previous employee unless you filled the position with a new employee.

## What if my payroll costs changed during the Covered Period?

If your payroll costs change due to a reduced number in full-time employees, then your loan forgiveness amount will be reduced proportionately.

If your payroll costs change due to reduced salaries, your eligible amount of forgiveness will be reduced if your total payroll costs fall below 60% of the total loan amount.

If an employee did not work for the borrower in 2019 or earns in excess of \$100,000 but experienced a salary reduction, these salaries are not factored into the calculation.

## How do I calculate my payroll costs if my loan funds are received in the middle of a pay period?

A borrower's "Covered Period" begins on the date PPP loan funds are disbursed by the lender. At this time, it does not appear that the 24 or eight-week period can be backdated to a period prior to receipt of loan funds. However, there is an "Alternative Payroll Covered Period" for employers who use a "biweekly (or more frequent) payroll schedule". The Alternative Payroll Covered Period allows borrowers to start their 24 or eight-week period "on the first day of their first pay period following their PPP Loan Disbursement Date." The Loan Forgiveness Application Instructions give the following example:

If the Borrower received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, October 10 (or June 20 for an 8-week 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 the application to "the Covered Period or the Alternative Payroll Covered Period." See the Loan Forgiveness Application for additional details.

## Can you explain the Covered Period for FTE count vs. the December 31 week ending FTE count?

The December 31, 2020 date is used for determining whether a borrower qualifies for a Safe Harbor from a reduction in loan forgiveness due to either a reduction in FTEs or a reduction in compensation.

Borrowers should carefully document any of the above situations to qualify for an exception.

## I have extended offers to some of my employees who were laid off and now they are refusing to come back to work? Will my loan forgiveness be impacted as a result?

No, it will not impact the FTE calculation. The SBA has confirmed that if an employer makes a "good faith, written offer of rehire" to their employees, and those employees refuse the offer to return to work, the borrower will not be penalized and those employees will not be counted towards a reduction in headcount. The borrower needs to provide documentation that they made an offer of rehire and that the employee has rejected the offer.

It may, however, impact the total amount of payroll that can be forgiven if it reduces the amount you will pay during the Covered Period to a level below 60%.

## Are bonuses and commissions included in payroll costs?

Yes, the CARES Act defines the term "payroll costs" broadly to include compensation in the form of salary, wages, commissions, or similar compensation. Additionally, if a borrower pays furloughed employees their salary, wages, or commissions during the covered period, those payments are eligible for forgiveness as long as they do not exceed an annual salary of \$100,000 as prorated for the covered period (for 24 weeks, a maximum of \$46,154 per individual, or for eight weeks, a maximum of \$15,385 per individual).

## Do lease payments include payment for personal property such as business vehicles, as well as real property?

Loan Forgiveness Application includes covered rent obligations “business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020.” Lease payments for business vehicles generally should qualify, provided that the lease was in force before February 15, 2020.

## What are considered covered utility expenses?

The Loan Forgiveness Application states that covered utility payments are “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.”

Like all nonpayroll costs, forgivable utility payments “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.” If you paid a utility bill during the covered period that was for a time before the covered period, that bill is forgivable.

## Does interest accrue during the forgiveness application period?

Yes. Interest begins accruing on the date the loan is funded. The Borrower will be responsible for any interest accrued on any unforgiven portions of a loan, if applicable.

## Is there a deadline to apply for loan forgiveness?

Borrowers have 10 months after the end of their Covered Period to apply for forgiveness.

## What documentation do I need to include in my application for loan forgiveness?

Along with either the 3508EZ or 3508 Application, Borrowers must submit documentation verifying the eligible cash compensation and non-cash benefit payments from the Borrower’s Covered Period consisting of each of the following:

- Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- Tax forms (or equivalent third-party payroll service provider reports) for the periods that overlap with the Borrower’s Covered Period:
  - o Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
  - o State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.
- Payment receipts, canceled 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 (PPP Schedule A, lines (6) and (7)).

Further, the 3508 Applications must also submit FTE and Nonpayroll documentation. The FTE documentation must show one of the following:

- a) the average number of FTE employees on payroll per week employed by the Borrower between February 15, 2019 and June 30, 2019;
- b) the average number of FTE employees on payroll per week 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 week employed by the Borrower between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive 12-week period between May 1, 2019 and September 15, 2019.
- d) (Documents submitted may cover periods longer than the specific time period.)

Lastly, 3508 Applications must also submit nonpayroll documentation verifying the 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 canceled 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 canceled 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) c. Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and receipts, canceled checks, or account statements verifying those eligible payments.

Other than those documents Borrower's must submit, there are many documents that each Borrower is required to maintain, but not submit. See SBA Form 3508 (06/20) Page 6-7 or SBA Form 3508EZ (06/20) Page 4 for more details.

### **When will I know how much forgiveness I qualify for?**

You should receive a response within 160 days of the submission of your completed application for loan forgiveness at most. If we are missing any documentation, we will request that as soon as we determine that the application packet is not complete. An incomplete application could delay the process, so we encourage you to review your submission for completeness. Of the 160 days, Coastal has 60 days to review the application and make a decision regarding loan forgiveness. If Coastal decides the borrower qualifies for loan forgiveness for some or all of the amount of the loan applied for, we will submit it to the SBA for review. The SBA will then have 90 days to remit to Coastal the appropriate forgiveness amount and interest accrued through the date of payment. If applicable, the SBA will deduct EIDL Advance Amounts from the forgiveness amount remitted to Coastal. Coastal then will notify you within 10 days after SBA has issued payment.

### **What happens if some of my loan is not forgiven?**

Any outstanding principal balance and/or interest that has accrued on the unforgiven loan amount must be repaid. Payments will begin ten months following loan disbursement, with interest accruing at a rate of 1% of the loan amount. The total remaining principal and interest must be repaid according to the terms of the loan, subject to a minimum maturity date of five years since the loan's disbursement.

### **What are some reasons my loan would require full repayment?**

Your loan might be denied in full if the funds were not used for eligible expenses during the Covered Period, or you failed to submit sufficient documentation of those expenses. Also, your loan would not be forgiven if you fail to submit your application for PPP Loan Forgiveness within 10 months after the end of the covered period. Other than the cost of not having your loan forgiven, there are other penalties involved as well. For example, a Borrower that makes a knowingly false statement to obtain forgiveness can be punished with fines, criminal charges, and jail time of not more than thirty years. See 18 U.S.C. 1014.

### **What are some reasons I would be considered ineligible?**

If you are determined to be an ineligible business, including:

- Businesses primarily engaged in lending, investments, or to an otherwise eligible business engaged in financing or factoring.
- Businesses with more than 500 employees or whose principal place of business is outside of the United States and that do not fit into any other alternate size standard.
- Ineligible non-profits – ONLY 501(c)(3) non-profits, 501(c)(19) veterans' organizations, and SBA-designated tribal business concerns with 500 or fewer employees whose principal place of residence is in the United States are eligible.
- Applicant is a franchise that is not SBA approved.
- The business was not in operation on February 15, 2020 or earlier.
- An owner of 20% or more of the equity of the applicant is incarcerated, on probation, on parole; presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of a felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance within the last five years or any other felony within the last year.
- Household employer (individuals who employ household employees such as nannies or housekeepers)
- Engaged in an activity that is illegal under federal, state, or local law.

### **I am self-employed and have a PPP loan. What amount of my loan is eligible for forgiveness?**

The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. However, for self-employed applicants, forgiveness for owner compensation is limited to 8/52 of 2019 net profit (up to \$15,385) for an eight week covered period or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833) for a 24-week covered period, but excluding any qualified sick leave equivalent amount for which a credit is claimed under section 7002 of the Families First Coronavirus Response Act (FFCRA) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA.

Additionally, payments of interest on mortgage obligations on real or personal property, rent payments on lease agreements in force, and utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (Business mortgage, rent, and utility payments respectively).

### **What is the cap for owner compensation?**

Owner compensation is different based on your entity (C-Corp, S-Corp, Partnership, Self-employed, General Partnership, LLC). See [question 8 on the SBA FAQ on Loan Forgiveness](#).

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