

PPP Forgiveness Application — **What borrowers need to know**



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Coping with COVID-19

- Understanding the PPP
- Loan Forgiveness Application



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Forgiveness Application

 **Paycheck Protection Program
Loan Forgiveness Application** OMB Control Number 3245-0407
Expiration Date: 10/31/2020

LOAN FORGIVENESS APPLICATION INSTRUCTIONS FOR BORROWERS

To apply for forgiveness of your Paycheck Protection Program (PPP) loan, you (the Borrower) must complete this application as directed in these instructions, and **submit it to your Lender** (or the Lender that is servicing your loan). Borrowers may also complete this application electronically through their Lender.

This application has the following components: (1) the PPP Loan Forgiveness Calculation Form; (2) PPP Schedule A; (3) the PPP Schedule A Worksheet; and (4) the (optional) PPP Borrower Demographic Information Form. All Borrowers must submit (1) and (2) to their Lender.

Instructions for PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")/DBA or Tradename (if applicable)/Business TIN (EIN, SSN): Enter the same information as on your Borrower Application Form.

Business Address/Business Phone/Primary Contact/E-mail Address: Enter the same information as on your Borrower Application Form, unless there has been a change in address or contact information.

SBA PPP Loan Number: Enter the loan number assigned by SBA at the time of loan approval. Request this number from the Lender if necessary.

Lender PPP Loan Number: Enter the loan number assigned to the PPP loan by the Lender.

PPP Loan Amount: Enter the disbursed principal amount of the PPP loan (the total loan amount you received from the Lender).

Employees at Time of Loan Application: Enter the total number of employees at the time of the Borrower's PPP Loan Application.

Employees at Time of Forgiveness Application: Enter the total number of employees at the time the Borrower is applying for loan forgiveness.

PPP Loan Disbursement Date: Enter the date that you received the PPP loan proceeds from the Lender. If loan proceeds were received on more than one date, enter the first date on which you received PPP loan proceeds.

EIDL Advance Amount: If the Borrower received an Economic Injury Disaster Loan (EIDL) advance, enter the amount.

EIDL Application Number: If the Borrower applied for an EIDL, enter the Borrower's EIDL Application Number.

Payroll Schedule: Select the box that corresponds to your payroll schedule.

Covered Period: Enter the eight-week (56-day) Covered Period of your PPP loan. The first day of the Covered Period must be the same as the PPP Loan Disbursement Date. For example, if the Borrower received its PPP loan proceeds on Monday, April 20, the first day of the Covered Period is April 20 and the last day of the Covered Period is Sunday, June 14.

Alternative Payroll Covered Period: 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"). For 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, June 20. 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.

If Borrower Received PPP Loans in Excess of \$2 Million: Check the box if the Borrower, together with its affiliates (to the extent required under SBA's interim final rule on affiliates (85 FR 20817 (April 15, 2020))) and not waived under 15 U.S.C. 636(a)(36)(D)(iv)), received PPP loans with an original principal amount in excess of \$2 million.

Forgiveness Amount Calculation (see Summary of Costs Eligible for Forgiveness below):

Line 1: Enter total eligible payroll costs incurred or paid during the Covered Period or the Alternative Payroll Covered Period.

SBA Form 3508 (05/20)
Page 1

New 11-page (with instructions and appendices) forgiveness application form released May 15, 2020.

<https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>

New Interim Final Rule on Loan forgiveness released May 22, 2020.

<https://home.treasury.gov/system/files/136/PPP-IFR-Loan-Forgiveness.pdf>

Stay tuned for more FAQs on loan forgiveness

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

Key Terms

Payroll costs

- Wages (now including bonuses and hazard pay), commissions, vacation and sick pay (not eligible for a credit under EFMLEA or EPSLA), health and retirement benefits, and state and local taxes for employees
- Payroll costs limited to \$100,000 per year, including self-employed
- Health and retirement benefits for self-employed individuals not considered payroll costs

Non-payroll costs

- Business interest on real and personal property, and rent on leases in place on 2/15/20
- Office equipment and car leases in name of entity
- Utilities — including electric, telephone, gas, water, transportation, and internet — for which service began before 2/15/20
- Interest on lines of credit or working capital loans would not qualify



Key Terms (cont'd)

Covered period

- Begins with date you received the loan; proceeds and continues for 56 days

Alternative payroll covered period

- Those on bi-weekly or more-frequent payroll schedule can begin with first payroll period after loan disbursement date
- If you use the alternative method, you still need to use the covered period for non-payroll costs
- Monthly and semi-monthly payrolls not eligible for this method



Key Terms (cont'd)

FTEs

- Based on 40 hours
- Alternative to use simplified measure for determining FTEs
- 40 hours or more = 1.0 FTE
- Less than 40 hours = .50 FTE
- Forgiveness is reduced based on the average number of FTEs that declined during the covered period divided by either:
 - Average number of FTEs from 2/15/19 to 6/30/19 OR
 - Average number of FTEs from 1/1/20 to 2/29/20
- Employees terminated between 2/15 and 4/27 who are rehired by end of covered period will not count toward reduction

F T E

FULL

TIME

EQUIVALENT

Key Terms (cont'd)

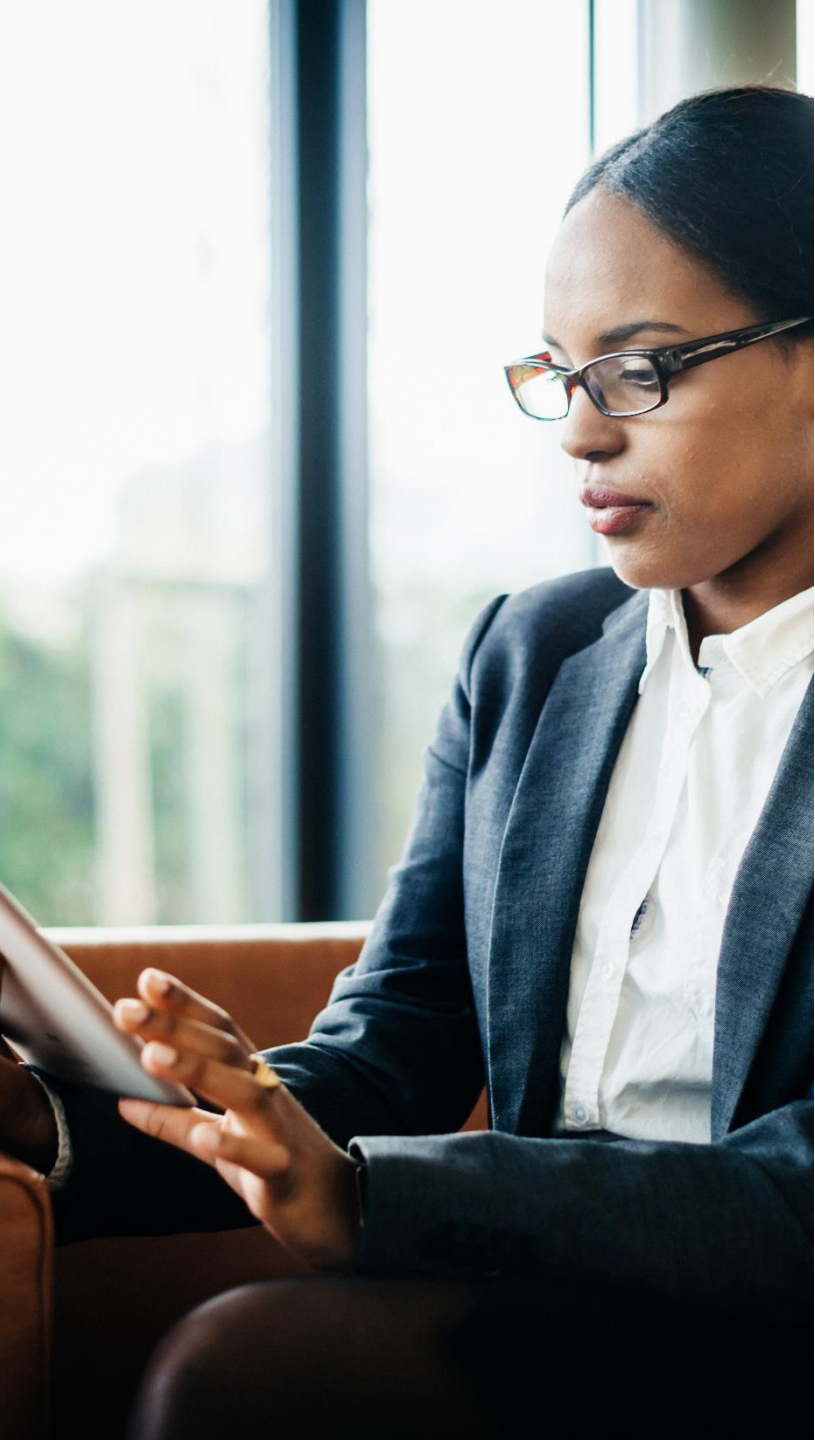
Relief if you don't fill the position

- Employee resigned
- Employee fired for cause
- Employee voluntarily requested reduction of hours
- Employee was offered job back (see above) but refused to return

Wage reduction

- If wages reduced by more than 25%, forgiveness reduced by excess above 25%
- Does not apply to employees who earned in excess of \$100k during 2019
- Employees whose wages are restored by end of covered period will not count toward reduction





Offers to Re-hire Best Practices

Document in writing!

- Formal letter to employee with written response is best.
- If that is not possible, an e-mail or text message will suffice.
- If the conversation happened orally, make sure to document it contemporaneously in writing in a “memo to file.”

Re-hiring Employees

“I am offering work to my employees, but they are turning it down to collect unemployment. Will they be able to continue to collect unemployment benefits?”

Generally speaking, a request that a furloughed employee return to work constitutes an offer of suitable employment that the employee must accept.

Employees who have “good cause” to turn down work may be able to collect. Each state has its own definition of “good cause,” but generally, the following are likely to constitute good cause:

- Testing positive for COVID-19
- Doctor recommends individual not work because he/she is at high risk
- Individual unable to work because of school/daycare closures

Refusing to work to collect benefits is fraud.

Employers should follow their state procedures to notify agencies about suspected fraud.



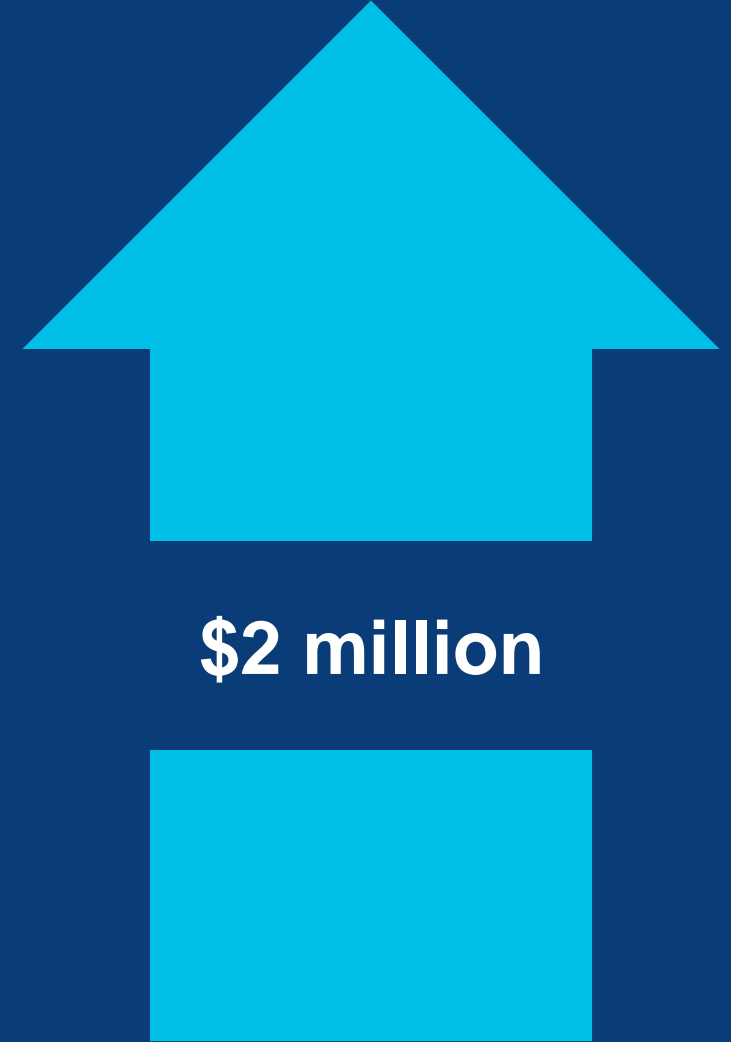


Loans over \$2 Million

- A borrower must check the box if, included with its affiliates, they received *\$2 million or more in PPP loan proceeds*. The original principal amount of the loans should be used.
- If a borrower qualified for an exception to the affiliation rules for purposes of eligibility (such as the exception for businesses operating in SAIC code 72 [restaurants, hotels]), the same exception applies for purposes of determining the total loan amount.

Loans over \$2 Million (cont'd)

- The SBA will review all loans of more than \$2 million. The SBA may also review other PPP loans as appropriate.
 - FAQ 39
- Any borrower that, together with its affiliates (as described in the previous slide), received a PPP loan of less than \$2 million will be deemed to have made the required certification concerning economic necessity in good faith.
 - FAQ 46





Required Loan Documentation

Page 10 of the application contains detailed descriptions of documentation required for the loan forgiveness application, including, but not limited to:

- Payroll documentation
- FTE documentation
- Non-payroll cost documentation
- Borrowers are required to retain all PPP loan documentation, including those listed above, plus backup documents used to complete the Schedule A worksheet, for **six years** after the loan is forgiven or repaid in full

Forgiveness Considerations

Payroll costs

- Based on payroll costs paid and incurred during the covered period
- Payroll costs incurred but not paid during the borrower's last payroll period of the covered period are eligible for forgiveness if paid on or before next regular payroll date

Non-payroll costs

- Non-payroll costs must be incurred or paid during covered period and paid on or before next billing date even if billing date is after covered period
- Bills in arrears seem to qualify

The 75% test

- At least 75% of funds must be used for payroll costs and 25% for eligible non-payroll costs



Example of PPP Loan Forgiveness

Assumptions

Company has 10 FTEs during base period
 Half of the people make \$100k per annum and the other \$50k
 Each person receives \$15k in annual fringe benefits
 Permissible non-payroll costs are \$50,000

PPP loan calculation

• Company annual payroll costs	\$ 900,000
• Loan amount	\$ 187,500

Forgiveness calculation

Assumes no reduction in FTEs and benefits

• Payroll costs during eight weeks	\$ 138,462
• Permissible non-payroll costs	\$ <u>50,000</u>
• Potential Forgiveness Amount	\$ <u>188,462</u>
• Loan amount	\$ 187,500
• Payroll cost 75% requirement	\$ 184,615
• Forgiveness amount	\$ <u>184,615</u>

Forgiveness calculation

Assumes 20% reduction in FTEs and reduce one \$100k person to \$70k

• Payroll costs during 8 weeks	\$ 106,154
• Permissible non-payroll costs	\$ 50,000
• Reduction for decrease in p/r by more than 25%	<u>(769)</u>
• Total spent	\$ 156,154
• FTE reduction quotient	<u>0.80</u>
• Potential forgiveness amount	\$ <u>124,923</u>
• Loan amount	\$ 187,500
• Payroll cost 75% requirement	\$ 141,538
• Forgiveness amount	\$ <u>124,923</u>

Balance of Loan Not Forgiven

- Amount of loan not forgiven shall be on a two-year maturity at 1% interest.
- No pre-payment penalties, and any amount not used may be prepaid immediately if borrower chooses.



Filing Information

Application expires on October 31, 2020

- Suggests deadline for submission of application (but no current deadline in regulations)
- Lender then has 60 days to process application
- Principal and accrued interest payments (payable in 18 installments) begin after six months



A person in a dark suit, white shirt, and striped tie is carrying a large cardboard box. The box contains a small potted plant with green grass, a silver pen holder with pens, and two large colorful folders (red and green). The person is walking on a light-colored floor in front of a glass wall.

Questions

- How long does an employee who was rehired by the end of the covered period have to be employed to qualify for forgiveness?
- What happens if the employee is terminated after the covered period?
- What happens if the employee's wages are reduced after the covered period?

Delay of Payment of Payroll Taxes

- Business is not eligible if loan is forgiven under paycheck protection program
- Applies to employer's share of social security (6.2%) and 50% of self-employment tax between now and December 31, 2020
- 100% deferral for wages paid between March 27, and December 31, 2020
- 50% will be payable on December 31, 2021, with remainder payable on December 31, 2022



NP



What is Not Deductible

Important new guidance

Borrowers will be **denied a tax deduction** on expenses for which they receive loan forgiveness — Notice 2020-32:

- Borrower will have greater taxable income because fewer expenses to deduct

S. 3612 – makes clear that congressional intent was to allow the tax deduction, but it is unclear at this point whether S. 3612 will become law.



IRS

Department of the Treasury
Internal Revenue Service

Paycheck Protection Program Flexibility Act

- Allows forgiveness for expenses beyond the eight-week covered period
- Eliminates restrictions limiting non-payroll expenses to 25% of loan proceeds
- Eliminates restrictions limiting loan terms to two years
- Ensures full access to payroll tax deferment for businesses that take PPP loans
- Extends the rehiring deadline to offset the effect of enhanced Unemployment Insurance

QUESTIONS?

Thank You



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THANK YOU

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