

Disclaimer

This presentation is based on relevant government guidance available as of May 20, 2020. There are many areas of the CARES Act, related guidance and the SBA's Loan Forgiveness Application that are unclear and additional clarification from the government is needed. In addition, there may be legislation in future weeks that modifies the program rules. This presentation includes our best interpretation of the guidance.

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What's Next?

- SBA's Loan Forgiveness Application was released on Friday, May 15.
- <https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>

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.

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Dates: Covered period



- Determine your “Covered Period”, which is the 56 days starting with receipt of your PPP loan proceeds
- Example: Proceeds received 4/21/20
Covered Period: 4/21/20 – 6/15/20

20. Question: The amount of forgiveness of a PPP loan depends on the borrower’s payroll costs over an eight-week period; when does that eight-week period begin?

Answer: The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.⁵

Dates: Covered period

- The SBA's Loan Forgiveness Application provides for an optional "Alternative Payroll Covered Period"
- Begins on the 1st day of the 1st pay period following the PPP loan disbursement date.
- Example: Loan proceeds received 4/21/20 (Tuesday)
Weekly payer, next pay period begins 4/27 (Monday)
Alternative Payroll Covered Period would be:
4/27/20 – 6/21/20

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Dates: Covered period

- Twist #1: Choosing the Alternative Payroll Covered Period (APCP) will push the pay date for wages earned for the 8th week beyond the end of the APCP
- Continuing example for the weekly payer ...
 - The 1st pay period is 4/27-5/3, which is paid on 5/8
 - The 8th pay period is 6/15-6/21, which is paid on 6/26
 - The 56th day of the APCP is 6/21
- The rules allow you to include wages in the 8th pay period that were earned prior to the end of the APCP, as long as they are paid timely on 6/26

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Dates: Covered period

- Twist #2: The Alternative Payroll Covered Period applies only to payroll costs.
- The regular Covered Period applies to all other costs.
- Capture payroll costs for 4/27/20 – 6/21/20
- Capture nonpayroll costs for 4/21/20 – 6/15/20
- REMEMBER: The APCP is optional.

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FTEs

- The math for computing FTEs is based on the following paragraph in the Application:

Average FTE: This calculates the average full-time equivalency (FTE) during the Covered Period or the Alternative Payroll Covered Period. For each employee, enter 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.

FTEs

- FTEs are computed for the Covered Period (or APCP), by employee.
- Mary worked the following hours:
20, 25, 20, 20, 25, 30, 20, 20
- The calculation is as follows:
 $(20+25+20+20+25+30+20+20)=180/8=22.5$

$$22.5/40=.5625 = 0.6 \text{ FTE}$$

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FTEs

- For a bi-weekly payer, the math is similar.
- Steve worked the following hours:
85, 70, 90, 85
 $(85+70+90+85)=330/8=41.25$
 $41.25/40= 1.04 = 1.0$ FTE
- This formula is beneficial if employees fluctuate between weeks of OT and weeks below 40 hours.



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FTEs

- The Application provides for “FTE Reduction Exceptions” for situations that occurred during the covered period (or APCP):
- The following will not count against you:
 - employees who reject your re-hire offer
 - employees who were fired for cause
 - employees who voluntarily resigned
 - employees who voluntarily requested and received a reduction of their hours

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FTEs

- To be able to claim these “FTE Reduction Exceptions”
 - Document a good-faith written offer to rehire
 - Document any terminations for cause
 - Document any resignations
 - Document any requests for reduced hours



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FTEs

PPP Schedule A Worksheet

Table 1: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of less than or equal to \$100,000 for all pay periods in 2019 or were not employed by the Borrower at any point in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE	Salary / Hourly Wage Reduction
FTE Reduction Exceptions:				
Totals:		Box 1	Box 2	Box 3

Covered Costs

- The amount of forgiveness is based on the amount of loan proceeds spent on “covered costs” during the “Covered Period” (or APCP)
- Covered costs:
 - Payroll costs
 - Rent
 - Interest
 - Utilities

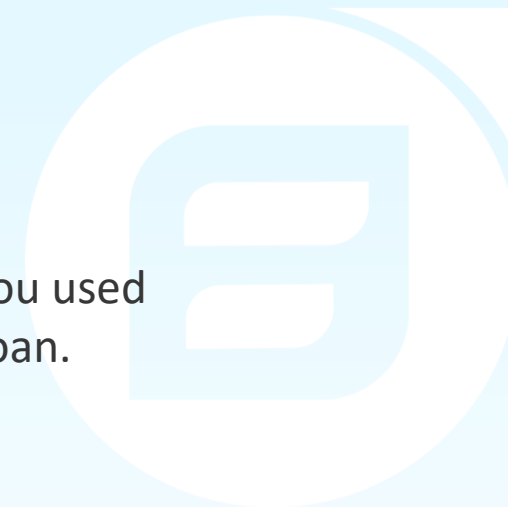
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Covered Costs – Payroll Costs

- Payroll costs... this is the exact same definition that you used when you compiled your 2019 data to get your PPP loan.
 - Gross wages (salaries, wages, commissions, etc.)*
 - Cash tip or equivalent
 - Vacation, parental, family, medical or sick leave**
 - Group health insurance premiums, employer portion
 - Retirement contributions, employer portion
 - State unemployment taxes

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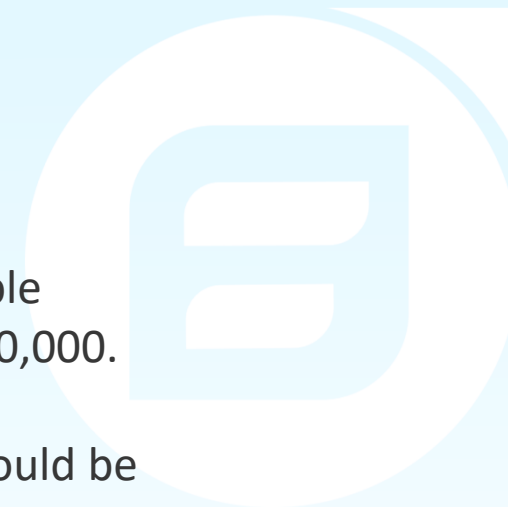


Covered Costs – Payroll Costs

* Just as you may have done when computing your eligible payroll for the loan, you have to exclude wages over \$100,000.

Wages in excess of \$15,385 paid to any one individual would be excluded. ($\$100,000/52*8$)

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Covered Costs – Payroll Costs

** The amount of wages claimed cannot include qualified sick leave wages for which a credit is allowed under the Families First Coronavirus Response Act (FFCRA)

The amount of wages claimed cannot include qualified family leave wages for which a credit is allowed under the FFCRA.

The benefits in FFCRA are separate from PPP, but you can't "double dip".

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Covered Costs – Payroll Costs

- Owner Compensation – limited to the lesser of \$15,385 or 2019 compensation multiplied by (8/52).
- For an Owner who gets a W-2, apply the 8/52 ratio to their gross wages for 2019
- For an Owner who is a partner, use 2019 Schedule K-1, line 14a, reduced by Sec.179 expense.
- For a sole proprietor, use 2019 Schedule C, line 31

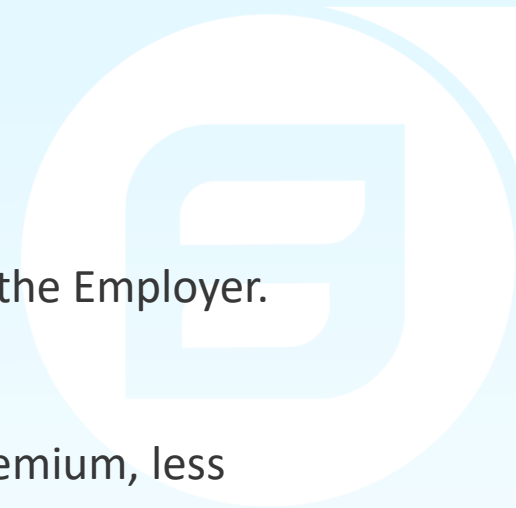
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Covered Costs – Payroll Costs

- Health insurance – only include the amounts paid by the Employer. (Employer’s net cost)
- For regular insurance, this would be total monthly premium, less amounts withheld from employee paychecks.
- For a captive, this would be total amount paid into the captive, less amounts withheld from employee paychecks.

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Covered Costs – Nonpayroll Costs

- Rent... Includes rent for real or personal property under a leasing agreement in force (signed) before February 15, 2020.
- Real property = building, storage unit
Personal property = equipment, vehicles
- Related party rent is included, but a signed lease agreement pre-February 15 is required. It is not advised to increase rent during the 8-week period, stick with the existing lease terms.

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Covered Costs – Nonpayroll Costs

- Utilities... Includes services for the distribution of electricity, gas, water, sewer, transportation, telephone or internet access for which service began before February 15, 2020.

Covered Costs – Nonpayroll Costs

- What is a “Transportation” utility?
- The only guidance we have indicates fuel for business vehicles only.
- Mileage? This is still in the “maybe” column. We are awaiting further guidance from the SBA.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Docket Number SBA-2020-0020]

RIN 3245-AH36

Business Loan Program Temporary Changes; Paycheck Protection Program—Additional Eligibility Criteria and Requirements for Certain Pledges of Loans

AGENCY: U. S. Small Business Administration.

ACTION: Interim final rule.

d. 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.

i. Owner compensation replacement, calculated based on 2019 net profit as described in Paragraph 1.b. above.

ii. Employee payroll costs (as defined in the First PPP Interim Final Rule) for employees whose principal place of residence is in the United States, if you have employees.

iii. 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), and business utility payments (e.g., the cost of electricity in the warehouse you rent or gas you use driving your business vehicle). You

Covered Costs – Nonpayroll Costs

- Interest... Includes interest (not principal) on loans secured by real or personal property that were in effect before February 15, 2020.
- If you have any capital leases, they would not get counted as “rent” since they are a financing agreement. The monthly interest component would be considered a covered cost.

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Covered Costs – Nonpayroll Costs

- We have been asked if the loan proceeds can be used to pay down an existing line of credit, with the expectation that the line would then be drawn down as needed to fund covered costs.
- This does not seem to be consistent with the spirit of the CARES Act, which has given us a specific list of covered costs for which proceeds can be used.

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Wait.... Is this cash basis or accrual?

There is still no clear answer to this question. With respect to payroll costs, the Application indicates 8-weeks of costs but some have interpreted it more loosely to say you can get what was paid AND what is incurred and paid later.

For nonpayroll costs, the Application indicates you could pay and include costs incurred prior to the covered period.

For example: Loan was funded 4/21/20. You were behind on rent and paid the April rent on 4/23 (normally due 4/1). May rent and June rent are paid timely on 5/1 and 6/1. For the covered period 4/21/20 – 6/16/20 you end up including three months of rent.

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Covered Costs

- Once you have all of your covered costs captured for the covered period, you have to evaluate the total and the components.
- At least 75% of total proceeds that are spent, must be spent on payroll costs.
- There is a reduction in forgiveness if you don't reach 75% or if you don't spend all of the money.



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Covered Costs

- Example: You receive a \$100,000 PPP loan. You spend \$80,000 on payroll costs and \$15,000 on other covered costs.
- Total spent = \$95,000
- Payroll costs = 84% ($\$80,000 / \$95,000$)
- Reduction is \$5,000. You met the 75% test, but you didn't spend all of the proceeds on covered costs.

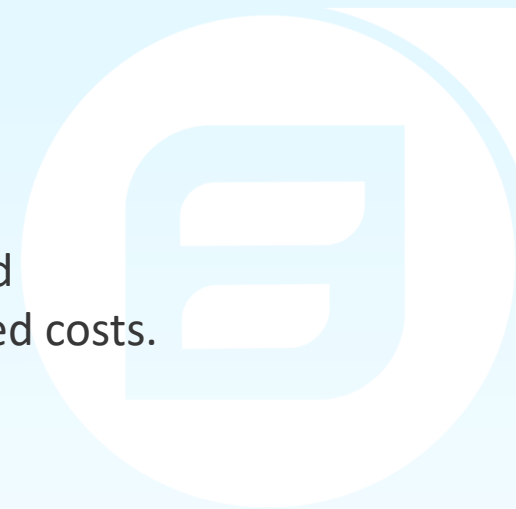
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Covered Costs

- Example: You receive a \$100,000 PPP loan. You spend \$70,000 on payroll costs and \$30,000 on other covered costs.
- Total spent = \$100,000
- Payroll costs = 70% ($\$70,000 / \$100,000$)
- Reduction is \$6,666. Maximum forgiveness is a function of the amount spent on payroll costs:
 $\$70,000 / 75\% = \$93,334$ maximum forgiveness

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Summary of the Forgiveness Reductions

- If you don't spend all of the proceeds, forgiveness is reduced.
- If you cut base wages more than 25%, forgiveness is reduced by the total for all affected employees.
- If your FTE count drops, forgiveness is reduced by the relevant percentage.

Example: FTE count drops by 5%. The "FTE Reduction Quotient" is 95%.

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Summary of the Forgiveness Reductions

- Forgiveness amount is the lesser of the following 3 numbers:
 - ~ (Total spent – wage reduction) * FTE Reduction Quotient
 - ~ PPP Loan Amount
 - ~ Total spent on payroll costs divided by 0.75

Summary of the Forgiveness Reductions

- After the forgiveness amount is determined as noted on previous slides, it will be reduced by the amount of the EIDL Grant that you may have received. (See Application instructions for Line 11, which is on page 2.)
- The EIDL Grant program was \$1,000 per employee, up to a maximum of \$10,000
- You will need to enter your EIDL Advance amount (the grant) and your EIDL Application Number on the Loan Forgiveness Application

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Documentation

- When you submit your application for loan forgiveness to your lender, they will expect documentation of everything we just covered:
 - Average FTEs for the covered period
 - Average FTEs for the chosen base period
 - Payroll tax reports to support gross wages
 - Account statements for health insurance, utilities, rent, interest, etc.
 - Verification of payment: bank statements, cancelled checks, etc.

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Documentation

What happens if I don't get 100% forgiveness?

The unforgiven portion turns into a loan, which bears interest at 1% and is payable over 18 months. No collateral or personal guarantee is required and there is no prepayment penalty.

Payments begin six months after you received your loan proceeds. Interest accrues during the six-month deferral period.

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