

PPP Loan Forgiveness Application

MAY 2020

On May 15, 2020, the [U.S. Small Business Administration](#) (SBA) announced its long-awaited forgiveness rules through the release of the [PPP Loan Forgiveness Application](#).

The application and accompanying instructions specify how loan recipients can apply for PPP loan forgiveness and allow companies to complete the detailed calculations to determine forgiveness amounts. The 11-page application package summarizes eligible and non-eligible payroll costs, indicates the documents that must be submitted by borrowers with the PPP loan forgiveness application, and provides step-by-step directions for completing the forms.



The Process

- A borrower may request forgiveness by completing the PPP Loan Forgiveness Application and submitting it to its PPP lender along with: 1) the PPP Loan Forgiveness Calculation Form; 2) the PPP Schedule A; 3) documentation verifying cash compensation and non-cash compensation benefit payments for each employee during the Covered Period or the Alternative Payroll Covered Period; 4) documentation showing the full-time equivalent (FTE) employees for the Covered Period or the Alternative Payroll Covered Period; and 5) documentation verifying both the existence of the non-payroll cost arrangements in place prior to February 15, 2020, and the eligible amounts paid or incurred during the Covered Period.
- When submitting the Loan Forgiveness Application, a borrower must certify that it: 1) has verified the payroll and non-payroll costs for which they seek forgiveness; 2) understands that the government may pursue civil and criminal remedies for knowing misuse of borrowed funds and for false statements and bank fraud; 3) has submitted the required documentation for forgiveness; 4) has submitted or will submit tax documents to the IRS consistent with those submitted to SBA; and 5) acknowledges the SBA can request additional information to evaluate loan forgiveness.
- Before beginning the Loan Forgiveness Application, a borrower should obtain payroll records for:
 - the eight-week period (56 consecutive days) that begins on the date the

- borrower received PPP loan funds (Covered Period); or
- at borrower's option, and for payroll purposes only, the eight-week period (56 consecutive days) that begins on the first day of the borrower's first payroll period after the date the borrower received PPP loan funds (Alternative Payroll Covered Period).
- It is not enough just to know how much a borrower paid its employees during the Covered Period or the Alternative Covered Period. In order to determine whether the borrower will be subject to a reduction in forgiveness based on a reduction in salaries or wages, it should compile records reflecting the salary and hourly wages paid and the number of hours worked per week for each employee during this time and for the period from January 1, 2020 through March 31, 2020. Documentation may also be required if the borrower wishes to seek a safe harbor by restoring the employee's average annual salary or hourly wage as of June 30, 2020.
- A borrower should also gather records dating from February 2020 through the end of the Covered Period of payments on real or personal property mortgages, lender amortization schedules, lease agreements for real or personal property, utility invoices and canceled checks or electronic banking records reflecting payments for these non-payroll costs. A borrower should also have a copy of mortgages and leases as well as copies of utility invoices dated before February 15, 2020, to show that these obligations were in force before that date.
- A borrower must first complete the PPP Schedule A Worksheet (Worksheet) to Schedule A, then PPP Schedule A and finally the PPP Loan Forgiveness Calculation Form as the borrower will need information from the Worksheet to complete Schedule A and will need information from Schedule A to complete the Calculation Form.
- A borrower is requested to submit certain demographic information along with its PPP Loan Forgiveness Application, but is not required to do so.
- A borrower must retain a copy of all forgiveness documents submitted to its PPP lender, as well as the Worksheet, all PPP application and loan documents, and all documentation related to its eligibility and necessity for six years after the date the loan is forgiven or repaid in full.

Questions Addressed by the SBA Application and Instructions - What Costs Are Eligible for Loan Forgiveness?

- PPP loan proceeds may be forgivable so long as the loan proceeds are used on the following expenses incurred or paid during the Covered Period (or solely for payroll costs incurred or paid during the Alternative Payroll Covered Period): 1) payroll costs; 2) mortgage interest payments; 3) rent or lease payments; and 4) utility payments. Payroll costs must account for at least 75 percent of the loan forgiveness amount.
- Eligible payroll costs include gross salary, gross wages, gross tips and gross commissions, and paid leave not including leave covered by the Families First Coronavirus Response Act (FFCRA), up to \$100,000 of annualized cash compensation per employee capped at \$15,385 maximum per individual, plus benefits for employees as set forth in the [*Interim Final Rule on PPP, III.2.f.*](#)
 - For ease of calculations, borrower may elect to use the Alternative Payroll Covered Period.

- The Alternative Payroll Covered Period applies only to payroll costs, calculation of FTE employees and salary/hourly wage reductions; it does not apply to non-payroll costs.
- Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred, but not paid, during the last pay period during the Covered Period or Alternative Payroll Covered Period are eligible for forgiveness if paid on or before the next regular payroll date.
- Eligible non-payroll costs include mortgage interest payments, rent or lease payments, and utility payments.
 - These costs must be for a mortgage obligation incurred before February 15, 2020, a rent or lease agreement in force before February 15, 2020, or a utility service in place before February 15, 2020.
 - Non-payroll costs 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 that date is after the Covered Period.
 - Non-payroll costs may not exceed 25 percent of the loan forgiveness amount.

What Was Not Answered in the New Guidance

The PPP Loan Forgiveness Application did not clarify the following questions:

- Are bonuses able to be counted as cash compensation?
- What is the deadline for submission of the PPP Loan Forgiveness Application?
- What if the borrower's business was subject to local orders that required it to be closed and the borrower was not able to pay its employees during the Covered Period or the Alternative Payroll Covered Period?
- How does one compare employee salary/hourly wages and calculate FTEs if a borrower is acquired during its chosen covered period?
- What type of transportation, telephone or internet access payments qualify as a covered utility for purposes of loan forgiveness?

Weston Hurd attorneys are available to assist your business in understanding and completing the [PPP Loan Forgiveness Application](#).

Previous E-Advisories

[Understanding the SBA New PPP Certification Guidance - April 2020](#)

[Senate Passes Keeping American Workers Paid and Employed Act - March 2020](#)

About the Author



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