

SMALL BUSINESS LOAN OPTION:

PAYCHECK PROTECTION PROGRAM (PPP) LOAN FORGIVENESS GUIDELINES

UPDATED 5/20/2020

An important element of the PPP is the forgiveness afforded to loan recipients for up to 100% of the loan amount, if the loan is properly managed per the terms of the loan agreement. On Friday, May 15, 2020, the SBA released the Paycheck Protection Program Loan Forgiveness Application ([SBA Form 3508 \(→\)](#)). The document can be found at the link below. In general, the form and accompanying 11 pages of instructions guide borrowers through the details needed to complete the required forms for submission and certifications.

While we expect more guidance and clarification to the forgiveness process, we now have a much clearer understanding of the forgiveness calculation and definitions of key terms. Proper record keeping and documentation will be an essential component of this process to ensure your lender has all the information required to populate the SBA's system with forgiveness details. FINSYNC's solution and tools are uniquely positioned to help you complete this process.

Link to Loan Forgiveness Application (published on May 15, 2020)

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

Need Help with PPP Forgiveness?

[Invite your accountant \(→\)](#) or [get matched to an accountant \(→\)](#).

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| <p>GENERAL GUIDELINES</p> | <p>Forgiveness calculation is based on the eight (8) week period from either 1) the date of final loan disbursement (the 'Covered Period') or 2) an alternative 8 week period for Payroll at borrower's election to coincide with first payroll date after disbursement (the 'Alternate Payroll Period'). (If the Alternate Payroll Period is selected, the loan disbursement date still applies for other forgiveness expenses other than payroll). Some special rules apply:</p> <ul style="list-style-type: none"> • Forgiveness amount cannot exceed loan principal • Must be cash spent, however, the application allows for 'costs incurred during the 8 weeks' that will be paid on the next payroll or billing cycle to be included. (but counted only once in the calculation) • 75% or more must be spent on Payroll Costs (reductions to forgiveness will apply if this rule is not met) • Cannot prepay for Rent, Utilities, Interest, etc., for future periods beyond the 8 weeks • Forgiveness amount may be reduced if 1) FTE are reduced or 2) Compensation per employee is reduced, although this can be avoided if FTE and Compensation are restored to pre-loan levels prior to 06/30/2020. Special FTE exceptions are allowed if good faith efforts are made to rehire employees and they refuse, or if they leave under certain circumstances. • Borrowers must make a series of certifications with regard to the use of funds, accuracy of calculations, and consent to share documentation with the SBA. |
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| <p>How much can be forgiven?</p> | <p>Up to 100% of the loan amount, as long as the expenses fall into one of these categories:</p> <ul style="list-style-type: none"> • Payroll (using same definition as the loan application) • Rent for leases in place prior to 2/15/2020 • Utilities (generally assumed to be electricity, gas, water, telephone and internet) for services in place prior to 2/15/2020 • Interest portion of mortgages in place prior to 2/15/2020 <p>Note: some reductions may apply that are described below, and the Loan Forgiveness Application has many calculations to test for potential reductions.</p> |
| <p>What constitutes payroll costs?</p> | <p>The forgiveness calculation uses the same basic definition for Payroll Costs as the loan application:</p> <ul style="list-style-type: none"> • Salary, wages, commissions, tips, vacation, sick leave, dismissal/separation pay • Company paid health benefits • Company paid retirement benefits • Company paid state and local taxes <p>Reduced by:</p> <ul style="list-style-type: none"> • Compensation for individuals earning >\$100K annually (Note: the application specifies that individuals in this category are capped at \$15,385 ($\\$100,000 / 52 * 8$)) • Employees residing outside the United States • Qualified sick and family wages paid under the Families First Coronavirus Response Act (FFCRA) where the business may claim a credit |
| <p>Do all expenses have to be paid during the period?</p> | <p>The Loan Forgiveness Application introduces a new concept for payroll and non-payroll costs incurred during the 8 week period, but not yet paid. The Application clarifies that payroll and non-payroll costs incurred but not paid are still eligible for forgiveness, if they are paid on or before the next regular payroll cycle or billing date.</p> |
| <p>What is the 75% spend on Payroll Costs Rule?</p> | <p>The SBA guidance directs that not more than 25% of loan forgiveness can be for non-payroll costs, hence 75% of forgiveness must be for payroll costs. This test is embedded in the Forgiveness Application (Line 10).</p> |



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| <p>What is the FTE Reduction Rule?</p> | <p>Loan forgiveness may be reduced if the average number of FTEs during the 8-week covered period is less than the lower of</p> <ol style="list-style-type: none"> 1. the average FTEs from 2/15/2019 - 6/30/2019 or 2. the average FTEs from 1/1/2020 - 2/29/2020 or 3. for seasonal employers any 12 week period during 5/1/2019 - 9/15/2019 <p>The Loan Forgiveness Application embeds this concept and provides detailed instructions, and requires the business to complete a thorough analysis of staffing for each period to calculate each of the time points for comparison.</p> <p>The SBA has also clarified that FTE count will be based on a 40 hour work week, to provide definitive guidance on calculation of part-time employees, rounded to the nearest single decimal point. Alternatively, the instruction allows at the borrower’s option a ‘simplified’ approach to count full-time employees working 40 hours or more as 1.0, and for part time employees to count them as .5, thus forgoing a potentially difficult historical reconciliation.</p> |
| <p>What is the Compensation Reduction Rule?</p> | <p>Loan forgiveness may be reduced if employees earning less than \$100,000 have their wages reduced by more than 25% during the 8 week Covered Period or Alternate Payroll Period. The Application requires a borrower to review every single employee in this category for potential wage reduction, and then outlines a 3 step process to calculate potential forgiveness reduction. As noted, this does not apply to employees earning more than an annual rate of \$100,000.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Example: a business has an employee that earned \$78,000 annually prior to the 8-week covered period (or \$12,000 for 8 weeks). During the covered period, the employee’s wages were reduced to \$6,000 for 8 weeks, a 50% reduction. The amount over 25% (\$3,000) would be a reduction in forgiveness, if wages are not restored prior to June 30, 2020.</p> </div> |
| <p>What if FTE and compensation are restored?</p> | <p>Loan Forgiveness reductions listed above may not be applicable, based on this guidance from the SBA: “Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020”. This Safe Harbor test is a component of the Application.</p> |
| <p>What exceptions to the FTE reduction test are applicable?</p> | <p>Reductions in the following cases do not reduce a Borrower’s forgiveness for the FTE calculations:</p> <ul style="list-style-type: none"> • Any position for which the Borrower made a good-faith, written offer to rehire an employee during the Covered Period which was rejected by the employee • Any employee who, during the Covered Period, was 1) fired for cause, 2) voluntarily resigned, or 3) voluntarily requested and received a reduction of hours |
| <p>How do I treat an EIDL grant for forgiveness?</p> | <p>If your EIDL Loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness on the PPP Loan. The Forgiveness Application requires the borrower to disclose the amount of any EIDL Advance and EIDL Application Number.</p> |



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| <p>Why does the SBA ask if the loan is over \$2 million?</p> | <p>During the PPP loan origination periods, certain businesses applied for and received PPP funding, however, questions about the true need to certain businesses to receive funds was called into question, particularly publicly traded or well-capitalized businesses. Therefore, the SBA and Treasury have allowed businesses to pay back the loans if they could not demonstrate a true need, and for those that have kept the loans >\$2 million, it is possible those businesses will undergo additional scrutiny in the forgiveness process.</p> |
| <p>What documentation should I gather?</p> | <p>Now would be a good time to get baseline information and utilize the tracking template for the following types of data:</p> <ul style="list-style-type: none"> • Employee pay records for 2019 and 2020 by pay period (to assist with baseline wages before the Covered Period or Alternate Payroll Period starts) • Employee pay records for each week when the Covered Period or Alternate Payroll Period starts • FTE count for 2/15/2019 through 6/30/2019 and 1/1/2020 through 2/29/2020, or if seasonal employer, select 12 week period between 5/1/2019 - 9/15/2019 • FTE count for each week when the Covered Period or Alternate Payroll Period starts • Supporting documentation for payments of non-payroll costs (invoices, checks, proof services in place prior to 2/15/2020) |
| <p>What is the process for loan forgiveness?</p> | <p>You should anticipate your lender will ask for a completed and signed Forgiveness Application form (SBA Form 3508 (-)) along with documentation to support the calculations. Since certain calculations may involve calculations up to June 30, 2020, the borrower should be thoughtful as to the appropriate time to file the Forgiveness Application after the 8 week Covered Period is over. Lenders will provide specific guidance on their own timeline for receiving applications.</p> |

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