

A Look at the Paycheck Protection Program Loan Forgiveness Application

With:

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A CONTRACTOR'S GUIDE TO CORONAVIRUS RELIEF PROGRAMS AND THE CARES ACT

Meet your presenters



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PPP FORGIVENESS APPLICATION

What is New

- 8 week covered period is now up to 24 weeks
 - No later than December 31, 2020
- Can choose to keep 8-week covered period
- 5-year maturity date for remainder that turns into loan
- 60% of funds must be for payroll, down from 75%
- Must apply for forgiveness of a covered loan within 10 months after the last day of the covered period
- \$100,000 Annualized for 24 weeks = \$46,153
 - Or 10 weeks worth of payroll (the loan amount)?

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Process of Forgiveness

- At the end of the borrower's covered period, an application for forgiveness must be submitted
 - Must be submitted within 10 months
- The Borrower's lender has 60 days to issue its decision to the SBA
- The SBA then has 90 days to remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment
- Any EIDL advance amounts will be reduced from this
- If borrower is to be reviewed, SBA will notify lender, and lender has 5 business days to notify Borrower

FTE Counting and Safe Harbor

- **Average FTEs:** For each qualifying employee, determine the average number of hours worked per week and divide by 40, before rounding to the nearest tenth. The maximum amount for each employee is 1.0
- **Alternate allowable calculation:** you can use 1.0 for every employee who worked 40 hours per week and 0.5 for every employee who didn't meet that standard
- Reduction in FTE count can reduce forgiveness—get those numbers back
- **FTE safe harbor:** If an employer can show that it made a good-faith, written offer to rehire an employee during the covered period but was rejected by the employee, then that reduction in headcount **will not result in a reduction in forgiveness**. The same is true if an employee was fired for cause, voluntarily resigned, or voluntarily required and received a reduction in hours

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FTE Safe Harbor Requirements

- The borrower made a good faith, written offer to rehire such employee (or, if applicable, restore the reduced hours of such employee) during the covered period or the alternative payroll covered period;
- the offer was for the same salary or wages and same number of hours as earned by such employee in the last pay period prior to the separation or reduction in hours;
- the offer was rejected by such employee;
- the borrower has maintained records documenting the offer and its rejection;
and
- **the borrower informed the applicable state unemployment insurance office of such employee's rejected offer of reemployment within 30 days of the employee's rejection of the offer**

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Employee Availability—Reduction in FTEs

- A new exemption has been added when it comes to employee availability
- If the employer can show an inability to rehire employees or similarly qualified employees by December 31, 2020; **OR**
- Is able to **document an inability to return to the same level of business activity** as such business was operating at before **Feb. 15, 2020, due to compliance with requirements** established or guidance issued by the Secretary of HHS, the Director of CDC, or the OSHA during the period beginning on March 1, 2020 and ending on December 31, 2020, **related to maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19**

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FTE Example

- Standard Method
 - Employees A, B, and C. A worked 45 hours, B worked 30 hours, and C worked 20 hours
 - Using the standard method, A counts as 1.0 FTE ($45 / 40$, capped at 1.0), B counts as .75 FTE ($30/40$), and C counts as .5 FTE ($20/40$) for a total of 2.25 FTEs for that week
- Simplified Method
 - Same employees and same hours worked
 - A counts as 1 FTE, B and C both count as .5 FTE (due to both working less than 40 hours) for a total of 2 FTEs
- Both methods of counting should be explored to best suit your needs

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FTE Application

- The borrower must first select a reference period:
 - (i) February 15, 2019 through June 30, 2019
 - (ii) January 1, 2020 through February 29, 2020; or
 - (iii) in the case of a seasonal employer, either of the two preceding methods or a consecutive 12-week period between May 1, 2019 and September 15, 2019
- If the average number of FTE employees during the covered period or the alternative payroll covered period is **less than** during the reference period, the total eligible expenses available for forgiveness is reduced proportionally by the percentage reduction in FTE employees.

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FTE Application

- The borrower shall provide the **aggregate total** of FTE employees for both the selected reference period and the covered period or the alternative payroll covered period, by adding together all of the employee-level FTE employee calculations
- The borrower must then **divide** the average FTE employees during the covered period or the alternative payroll covered period by the average FTE employees during the selected reference period, resulting in the reduction quotient

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FTE Application Example

- Borrower had 10.0 FTE employees during the reference period
 - The period chosen from previous slide
- This declined to 8.0 FTE employees during the covered period
 - The 8-week period, or the alternate payroll covered period
- The percentage of FTE employees declined by 20 percent and thus only 80 percent of otherwise eligible expenses are available for forgiveness
 - $8.0 \text{ FTE} / 10.0 \text{ FTE} = 80\%$

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Hazard Pay and Bonuses

- The CARES Act defines the term “payroll costs” broadly to include compensation in the form of salary, wages, commissions, or similar compensation
- In guidance released by the U.S. Treasury on May 22, 2020, the Treasury specifically stated that hazard pay and bonuses are allowable
- This includes payments made to furloughed employees
- Cannot exceed \$100,000 annually

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Paid or Incurred

- Only costs paid **or** incurred during the 8-week period are generally eligible for forgiveness
- Certain costs are eligible for forgiveness even though they were incurred **before** the covered period but paid **during** the period
- Certain costs may be eligible for forgiveness even though they were incurred **during** the covered period but paid **after** the period
- To qualify for forgiveness, non-payroll costs (such as mortgage interest, rent, and utilities) must either be paid during the 8-week covered period or incurred during the 8-week period and paid by its next regular due date, even if that due date is outside the 8-week period

Owner-employees and Self-Employed

- Compensation listed on line 9 of Schedule A
 - Calculate using number from your 2019 schedule C, line 31 divided by 52 multiplied by 8 (for the eight-week forgiveness period). The max amount you'll have here is \$15,385, that's the \$100,000 threshold, divided by 52 multiplied by 8
 - Compensation capped at \$15,385 or the 8-week equivalent of their applicable compensation for 2019, **whichever is lower**
- Owner-employees are capped by the amount of their 2019 employee cash compensation and employer retirement and health care contributions made on their behalf
- No additional forgiveness is provided for retirement or health insurance contributions for self-employed individuals, including Schedule C filers and general partners, as such expenses are paid out of their net self-employment income

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Required Documentation

- No loan will be forgiven without submitting the following documentation to the Lender:
 - 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 Covered Period or the Alternative Payroll Covered Period
 - Payment receipts, cancelled 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
 - Any other document the SBA requests

Required Documentation

- For FTE calculations, documentation showing (at the election of the Borrower):
 - the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019;
 - the average number of FTE employees on payroll per month employed by the Borrower between January 1, 2020 and February 29, 2020; **OR**
 - in the case of a seasonal employer, the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive twelve-week period between May 1, 2019 and September 15, 2019.
- The selected time period **must be the same time period** selected for purposes of completing PPP Schedule A, line 11.

Required Documentation

- Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period
 - Business mortgage interest payments: Copy of lender amortization schedule and receipts/cancelled 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.
 - Business rent or lease payments: Copy of current lease agreement and receipts/cancelled 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
 - Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments.

Documents to Retain

- The following documents need to be retained:
 - PPP Schedule A Worksheet or its equivalent
 - Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 1, including the “Salary/Hourly Wage Reduction” calculation, if necessary
 - Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 2; specifically, that each listed employee received during any single pay period in 2019 compensation at an annualized rate of more than \$100,000
 - Documentation regarding any employee job offers and refusals, firings for cause, voluntary resignations, and written requests by any employee for reductions in work schedule
 - Documentation supporting the PPP Schedule A Worksheet “FTE Reduction Safe Harbor”

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What is Still Missing?

- Confirmation is needed that guaranteed payments to partners are included in line 9 of Schedule A
- What type of transportation, telephone or internet access payments qualify as a covered utility for purposes of loan forgiveness?
 - Fuel?
- Confirmation of the inclusion of Per Diem costs



We are in this together

Most importantly, in this time of crisis, keep yourself, your family and your community safe. We are in this together. Please feel free to reach out with any questions that you have.



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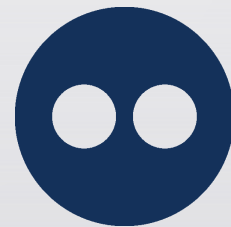
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Thank you for joining us.

If you have any remaining questions, please send your inquiry to questions@abcma.org and we will respond to you as soon as we can.

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