

Forgiveness Toolkit for PPP Borrowers as of June 24, 2020

The Paycheck Protection Program (PPP) provides for forgiveness of up to the full principal balance and accrued interest for loan proceeds used for covered purposes during the covered period. This toolkit is intended to help provide borrowers with information primarily related to the forgiveness phase of the PPP program, and is current as of the date of publication (6/24/2020). For borrowers that are sole proprietors or self-employed individuals, please also see the WBA Sole Proprietor/Self-Employed Guide to PPP for additional unique information.

IT IS YOUR RESPONSIBILITY TO TRACK YOUR USE OF PPP LOAN PROCEEDS. YOU WILL BE REQUIRED TO PROVIDE DOCUMENTATION WHEN APPLYING FOR PPP LOAN FORGIVENESS.

» Borrower Frequently Asked Questions

What are eligible payroll costs that may be forgiven?

Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the 24-week (168-day) or eight-week (56 day) Covered Period (or Alternative Payroll Covered Period) (“payroll costs”).

- Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction.
- Payroll costs are considered incurred on the day that the employee’s pay is earned.
- Payroll costs incurred but not paid during the borrower’s last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date.
- Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period).
- For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the covered period. Count payroll costs that were both paid and incurred only once.

What is the “Covered Period?”

The “Covered Period” is either (1) the 24-week (168-day) period beginning on the PPP Loan Disbursement Date, or (2) if the borrower received its PPP loan before June 5, 2020, the borrower may elect to use an 8-week (56-day) Covered Period. For example, if the borrower is using a 24-week Covered Period and 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, October 4. In no event may the Covered Period extend beyond December 31, 2020.

What is the “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 24-week (168-day) period (or for loans received before June 5, 2020 at the election of the borrower, the 8-week or 56-day period) that begins on the first day of their first pay period following their PPP Loan Disbursement Date.

What is the “Alternative Payroll Covered Period?” (cont’d)

For example, if the borrower is using a 24-week Alternative Payroll Covered Period and 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, October 10. Borrowers that elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in the SBA PPP Loan Forgiveness 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 the application to “the Covered Period” only. In no event may the Alternative Payroll Covered Period extend beyond December 31, 2020.

What amounts are included as “payroll costs?”

Payroll costs include:

- Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee);
- Employee benefits including costs for vacation, parental, family, medical, or sick leave;
- Allowance for separation or dismissal;
- Payments required for the provisions of group health care benefits including insurance premiums;
- Payment of any retirement benefit;
- State and local taxes assessed on compensation; and
- For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.

» **Borrower Frequently Asked Questions** *(continued)*

Are dental insurance premiums included in the definition of “payroll costs?”

Since the PPP guidance is unclear, after consulting with the Wisconsin SBA office, they provided the following information: Dental and vision insurance premiums are classified as an eligible PPP Employee Compensation Expense because of how “health insurance coverage” is defined by the IRS. The **IRS Definition of Health Insurance** is as follows:

Health insurance generally has the same meaning as the term “health insurance coverage” in section 9832(b)(1)(A), defined to mean benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a covered entity. The term health insurance includes limited scope (also called stand-alone) dental and vision benefits under section 9832(c)(2)(A) and retiree-only health insurance.

What is excluded from the definition of “payroll costs?”

The CARES Act expressly excludes the following from the definition of “payroll costs:”

- i. Any compensation of an employee whose principal place of residence is outside of the United States;
- ii. The compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary;
- iii. Federal employment taxes imposed between February 15, 2020 and June 30, 2020, including the employer’s share of FICA and Railroad Retirement Act taxes; and
- iv. Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116-127).

The CARES Act excludes from the definition of payroll costs any employee compensation in excess of an annual salary of \$100,000. Does that exclusion apply to all employee benefits of monetary value?

No. The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including:

- employer contributions to defined-benefit or defined-contribution retirement plans;
- payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums; and
- payment of state and local taxes assessed on compensation of employees.

What nonpayroll costs are eligible for forgiveness?

Nonpayroll costs eligible for forgiveness consist of:

- a) Covered mortgage obligations: payments of interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020;
- b) Covered rent obligations: business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020; and
- c) Covered utility payments: business payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.

An eligible nonpayroll cost 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 the billing date is after the Covered Period. Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount. Count nonpayroll costs that were both paid and incurred only once.

What are the eligible costs that may be forgiven for owners (owner-employees, a self-employed individual, or general partners)?

This amount is capped at \$20,833 for a 24-week Covered Period or 2.5 months’ worth (2.5/12) of 2019 compensation (\$15,385 for an 8-week Covered Period or 8-weeks’ worth (8/52) of 2019 compensation), whichever is lower.

Will a borrower’s forgiveness be reduced if there is a reduction in the number of full-time equivalents during the covered period?

The actual loan forgiveness amount that the borrower will receive may be less, depending on whether the borrower’s average weekly number of FTE employees during the Covered Period or the Alternative Payroll Covered Period was less than during the borrower’s chosen reference period. The borrower is exempt from such a reduction if one of the FTE Reduction Safe Harbor applies (see below). In addition, the borrower’s loan forgiveness will not be reduced if one of the permitted exceptions applies (see below).

What is the borrower’s “chosen reference period?”

At the borrower’s election, the reference period is either: i) February 15, 2019 to June 30, 2019; ii) January 1, 2020 to February 29, 2020; or iii) in the case of seasonal employers, either of the preceding periods or a consecutive 12-week period between May 1, 2019 and September 15, 2019.

» **Borrower Frequently Asked Questions** *(continued)*

What is the FTE Reduction Safe Harbor?

Two separate safe harbors exempt certain borrowers from any loan forgiveness reduction based on a reduction in FTE employee levels:

- 1) The borrower is exempt from the reduction in loan forgiveness based on a reduction in FTE employees described above if the borrower, in good faith, is able to document that it was unable to operate between February 15, 2020, and the end of the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with the requirements established or guidance issued between March 1, 2020 and December 31, 2020, by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.
- 2) The borrower is exempt from the reduction in loan forgiveness based on a reduction in FTE employees if both of the following conditions are met: a) the borrower reduced its FTE employee levels in the period beginning February 15, 2020 and ending April 26, 2020; and b) the borrower then restored its FTE employee levels by not later than December 31, 2020 to its FTE employee levels in the borrower's pay period that included February 15, 2020.

What are the FTE Reduction Exceptions?

On the PPP Schedule A Worksheet, borrowers should indicate the FTE of:

- 1) any position for which the borrower made a good-faith, written offer to rehire an individual who was an employee on February 15, 2020 and the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020;
- 2) any positions for which the Borrower made a good-faith, written offer to restore any reduction in hours, at the same salary or wages, during the Covered Period or the Alternative Payroll Covered Period and the employee rejected the offer; and
- 3) any employees who during the Covered Period or the Alternative Payroll Covered Period:
 - a) were fired for cause,
 - b) voluntarily resigned, or
 - c) voluntarily requested and received a reduction of their hours.

In all of these cases, include these FTEs on the worksheet only if the position was not filled by a new employee. Any FTE reductions in these cases do not reduce the Borrower's loan forgiveness.

Will a borrower's forgiveness amount be reduced if employee salary or hourly wage levels are reduced during the covered period?

The actual amount of loan forgiveness the borrower will receive may be less, unless an exception applies, depending on whether the salary or hourly wages of certain employees during the Covered Period or the Alternative Payroll Covered Period was less by more than 25% than during the period from January 1, 2020 to March 31, 2020. If the borrower restored salary/hourly wage levels by December 31, 2020, the borrower will be eligible for elimination of the Salary/Hourly Wage Reduction amount. Borrowers should complete the PPP Schedule A Worksheet (enclosed in this Toolkit) to determine whether to reduce the amount of loan forgiveness for which they are eligible.

How should a borrower calculate full-time equivalency?

The PPP Schedule A Worksheet published by SBA provides two methods for a borrower to use to calculate average full-time equivalency of employees. One option is 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 is provided to be used as a second option at the election of the borrower where the borrower assigns a 1.0 for each employee who works 40 hours or more per week, and 0.5 for each employee who works fewer hours.

» Timeline

- ✓ You may apply for forgiveness with your lender beginning at any time after you have used all of the loan proceeds for which you are requesting forgiveness, and ending no later than 10 months after the last day of the Covered Period.
- ✓ Lender has 60 days from receipt of forgiveness request to make a decision regarding forgiveness.
- ✓ No later than 90 days from the date of a forgiveness determination, SBA will reimburse Lender an amount equal to the amount of forgiveness, plus any accrued interest through date of payment, assuming SBA agrees with Lender's determination regarding forgiveness.

- ✓ Borrower begins making its first P&I monthly payment for remaining unforgiven portion of loan on the date the SBA remits the loan forgiveness amount to the lender (or notifies the lender that no loan forgiveness is allowed), or, 10 months after the end of the loan forgiveness covered period if you fail to submit a loan forgiveness application before the end of the 10 month period.
- ✓ 5 years from loan closing, final P&I payment due from Borrower (unless prepaid earlier; no prepayment penalties on PPP loans) or, if borrower and lender did not mutually agree to change the maturity date for loans made before June 5, 2020, the final payment date is 2 years from loan closing.

» PPP Forgiveness Application Forms

SBA has now issued two loan forgiveness application forms as of June 16, 2020. The **PPP Loan Forgiveness Application Form 3508EZ** may be used by borrowers if you can check at least one of the three boxes below. If you are unable to check one of the boxes below, you cannot use the **SBA Form 3508EZ** and instead you must apply for forgiveness of your PPP loan using SBA Form 3508 (Revised as of June 16, 2020).

- The Borrower is a self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483).

- The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

AND

The Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. (Ignore reductions that arose from an inability to rehire individuals who were employees on February 15, 2020 if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020. Also ignore reductions in an employee's hours that the Borrower offered to restore and the employee refused. See 85 FR 33004, 33007 (June 1, 2020) for more details.

- The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000); AND The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

Below are links to both application forms and relevant instructions.

<https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Form-EZ-Instructions.pdf>

<https://home.treasury.gov/system/files/136/PPP-Forgiveness-Application-3508EZ.pdf>

https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Instructions_1_0.pdf

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

In addition, WBA and its subsidiary, FIPCO, have created calculator tools to help borrowers complete these loan forgiveness applications. These calculators can be found at the following links:

<https://www.wisbank.com/articles/2020/06/ppp-forgiveness-calculation-form/>

» **Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application**

✓ **For Borrowers Using the SBA Form 3508EZ:**

PPP Loan Forgiveness Calculation Form 3508EZ

Payroll Records: Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period consisting of each of the following:

- a. Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- b. 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:
 - i. Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
 - ii. State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.
- c. 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.
- d. If applicable, the average number of full-time equivalent employees on payroll employed by the Borrower on January 1, 2020 and at the end of the Covered Period.

Nonpayroll Costs Documentation: Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- a. Business mortgage interest payments: Copy of lender amortization schedule and receipts or 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.
- b. Business rent or lease payments: Copy of current lease agreement and receipts or 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.
- c. 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.

✓ **For Borrowers Using the SBA Form 3508:**

PPP Loan Forgiveness Calculation Form 3508

PPP Schedule A

Payroll Records: Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period consisting of each of the following:

- a. Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- b. 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:
 - i. Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
 - ii. State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.
- c. 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 (PPP Schedule A, lines (6) and (7)).

Full-Time Equivalent (“FTE”) Documentation: Documentation showing (at the election of the Borrower):

- a. the average number of FTE employees on payroll per week employed by the Borrower between February 15, 2019 and June 30, 2019;
- b. the average number of FTE employees on payroll per week employed by the Borrower between January 1, 2020 and February 29, 2020; or
- c. in the case of a seasonal employer, the average number of FTE employees on payroll per week 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. Documents may include payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941) and state quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state. Documents submitted may cover periods longer than the specific time period.

» **Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application (*continued*)**

Nonpayroll Costs Documentation: Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

a. Business mortgage interest payments: Copy of lender amortization schedule and receipts or 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.

b. Business rent or lease payments: Copy of current lease agreement and receipts or 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.

c. 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 that Each Borrower Must Maintain But is Not Required to Submit**

✓ **For Borrowers Using the SBA Form 3508EZ:**

a. Documentation supporting the certification that annual salaries or hourly wages were not reduced by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period relative to the period between January 1, 2020 and March 31, 2020. This documentation must include payroll records that separately list each employee and show the amounts paid to each employee during the period between January 1, 2020 and March 31, 2020, and the amounts paid to each employee during the Covered Period or Alternative Payroll Covered Period.

b. Documentation regarding any employee job offers and refusals, refusals to accept restoration of reductions in hours, firings for cause, voluntary resignations, written requests by any employee for reductions in work schedule, and any inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020.

c. Documentation supporting the certification, if applicable, that the Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period (other than any reductions that arose from an inability to rehire individuals who were employees on February 15, 2020, if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020). This documentation must include payroll records that separately list each employee and show the amounts paid to each employee between January 1, 2020 and the end of the Covered Period.

d. Documentation supporting the certification, if applicable, that the Borrower was unable to operate between February 15, 2020 and the end of the Covered Period at the same level of business activity as before February 15, 2020 due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19. This documentation must include copies of the applicable requirements for each borrower location and relevant borrower financial records.

All records relating to the Borrower's PPP loan, including:

- a. Documentation submitted with its PPP loan application,
- b. Documentation supporting the Borrower's certifications as to the necessity of the loan request and its eligibility for a PPP loan,
- c. Documentation necessary to support the Borrower's loan forgiveness application, and
- d. Documentation demonstrating the Borrower's material compliance with PPP requirements.

The Borrower must retain all such documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

» **Documents that Each Borrower Must Maintain But is Not Required to Submit** (*continued*)



For Borrowers Using the SBA Form 3508:

PPP Schedule A Worksheet or its equivalent and the following:

- a. Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 1, including the “Salary/Hourly Wage Reduction” calculation, if necessary.
- b. 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.
- c. Documentation regarding any employee job offers and refusals, refusals to accept restoration of reductions in hours, firings for cause, voluntary resignations, written requests by any employee for reductions in work schedule, and any inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020.
- d. Documentation supporting the certification, if applicable, that the Borrower was unable to operate between February 15, 2020, and the end of the Covered Period at the same level of business activity as before February 15, 2020 due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of

the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19. This documentation must include copies of the applicable requirements for each borrower location and relevant borrower financial records.

- e. Documentation supporting the PPP Schedule A Worksheet “FTE Reduction Safe Harbor 2.”

All records relating to the Borrower’s PPP loan, including:

- a. Documentation submitted with its PPP loan application,
- b. Documentation supporting the Borrower’s certifications as to the necessity of the loan request and its eligibility for a PPP loan,
- c. Documentation necessary to support the Borrower’s loan forgiveness application, and
- d. Documentation demonstrating the Borrower’s material compliance with PPP requirements.

The Borrower must retain all such documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.