

SBA Releases PPP Loan Forgiveness Application and Instructions: Lays Out Calculation Process and Clarifies Some Open Questions

Article

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On May 15, 2020, the SBA and the Treasury Department released the long-awaited Paycheck Protection Program (PPP) loan forgiveness application and detailed instructions. They also announced that additional regulations and guidance would soon issue to further assist borrowers as they complete their applications, and to assist lenders with their responsibilities.

The SBA explained that the application and instructions “include several measures to reduce compliance burdens and simplify the process for borrower, including:

- Options for borrowers to calculate payroll costs using an “alternative payroll covered period” that aligns with borrowers’ regular payroll cycles
- Flexibility to include eligible payroll and non-payroll expenses paid or incurred during the eight-week period after receiving their PPP loan
- Step-by-step instructions on how to perform the calculations required by the CARES Act to confirm eligibility for loan forgiveness
- Borrower-friendly implementation of statutory exemptions from loan forgiveness reduction based on rehiring by June 30
- Addition of a new exemption from the loan forgiveness reduction for borrowers who have made a good-faith, written offer to rehire workers that was declined.”

The 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.

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Here is a list are some heretofore open questions clarified by the loan forgiveness application and instructions:

- First day of covered period begins on date of first loan disbursement.
- Alternate payroll covered period begins on first day of first pay period after the first loan disbursement.
- Audit threshold for loans in excess of \$2 million is based on original principal amount disbursed, including affiliate loans.
- EIDL advances will be deducted from forgiveness amount remitted to lender.
- Payroll costs are considered paid on the day paychecks are distributed or the borrower originates an ACH credit transaction.
- Payroll costs are considered earned on the day the employee's pay is earned.
- Payroll costs incurred but not paid during borrower's last pay period of the covered or alternate payroll covered period are eligible for forgiveness if paid on or before the next regular payroll date.
- Count payroll costs that were paid and incurred only once.
- Business rent or lease payments extends to lease agreements for real or personal property.
- Utility payments include transportation.
- Eligible non-payroll costs must be paid or incurred during the covered period and paid on or before the next regular billing date, even if after the covered period.
- Count non-payroll costs that were paid and incurred only once.
- SBA may request additional information to evaluate borrower's eligibility for the PPP loan and for loan forgiveness, and failure to provide information may result in an ineligibility determination or denial of the loan forgiveness application.
- Borrower's eligibility for loan forgiveness will be evaluated in accordance with PPP regulations and guidance issued by SBA through the date of the loan forgiveness application, and SBA may direct a lender to disapprove of the application if SBA determines borrower was ineligible for the loan.
- Average full-time equivalency (FTE) is the average numbers of hours paid per week divided by 40 (rounded to the nearest tenth), with the maximum for each employee capped at 1.0.
- Or borrower may elect 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.
- Salary and hourly wage reduction applies only to employees whose salaries or hourly wages were reduced more than 25% during the covered or alternate covered period compared to the period January 1, 2020 through March 31, 2020.

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- FTE reduction exception applies and does not reduce borrower's loan forgiveness for any positions for which borrower made a good faith, written offer to rehire which was rejected by the employee or for any employees who were fired for cause, voluntarily resigned or voluntarily requested (in writing) and received a reduction in their hours.
- List of documents each borrower must submit to support payroll, FTE and non-payroll calculations.
- List of documents each borrower must maintain for a period of six years after the date the loan is forgiven or repaid in full, but is not required to submit unless requested by an SBA authorized representative, including representatives of its Office of Inspector General.
- Optional borrower demographic information collected on veteran, gender, race and ethnicity data about each principal of borrower, including full name and position, for program reporting purposes only.

As borrowers and lenders get more familiar with the application and instructions, new questions will arise, and the SBA has promised new regulations and guidance along the way. But for now, let us take solace in this important first step on the road to forgiveness.

Treasury Department link to Loan Forgiveness Application, [click here](#).

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