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These materials have been provided for *general* informational purposes only and are not legal advice. Please consult with your CPA, accountant, or attorney for *individualized* guidance.

## PPP Forgiveness FAQ

### Which PPP Loan Forgiveness Form Do I Use?

The Small Business Administration (SBA) issued three application forms for Paycheck Protection Program (PPP) Loan Forgiveness: (1) Form 3508EZ, (2) Form 3508, and (3) Form 3508S.

**Form 3508S** is the application for all loans \$150,000 and under.

**Form 3508EZ** is a streamlined forgiveness application which is available only to those borrowers who fall into at least one of two SBA Criteria Boxes and whose loan is over \$150,000. If a Borrower meets these criteria, they can use the EZ form without having to fit into any other box.

**Box One** requires that the Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period compared to the most recent full quarter before the Covered Period.

**Also for Box One:** 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.

**Box Two:** The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period compared to the most recent full quarter before the Covered Period. (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,)

**Also for Box Two:** 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 (or, for a PPP loan made after December 27, 2020, requirements established or guidance issued between March 1, 2020 and the last day of the Covered Period) 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.

If a Borrower fits into one of these two boxes, they are eligible to use the streamlined Form 3508EZ. Alternatively, Borrowers who do not fit into any of the three boxes will use the standard Form 3508. The standard 3508 form includes two additional pages: (1) the PPP Schedule A and (2) the PPP Schedule A Worksheet.

**Form 3508** is for Borrowers who do not meet the criteria for the other two Forms.

### What is forgivable?

#### Eligible payroll costs.

Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the eight-week (56-day) to 24-week (168-day) Covered Period (or Alternative Payroll Covered Period if PPP loan was received before January 1, 2021). 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. For owner-employees, the total cash compensation eligible for forgiveness for an 8-week Cover Period may not exceed an annual salary of (8/52) of 2019 or 2020 compensation or \$15,385 per an individual, whichever is less in total across all business. For a Covered Period longer than 2.5 months, the total cash compensation eligible for forgiveness is capped at (2.5/12) of 2019 or 2020 compensations or \$20,833, whichever is less across in total across all businesses. Count payroll costs that were both paid and incurred only once.

Any Employer state and local payroll taxes that were paid or incurred during the Covered Period are eligible for forgiveness. Also, any employer contributions to employee benefits that were incurred or paid during the Covered Period are eligible for forgiveness.

For information on what qualifies as payroll costs, see Interim Final Rule on Paycheck Protection Program posted on April 2, 2020 (85 FR 20811), as amended by the Revisions to the First Interim Rule, posted on June 11, 2020. Include only payroll costs for employees whose principal place of business is in the United States.

### **Eligible nonpayroll costs.**

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 ("business mortgage interest payments");
- b. covered rent obligations: business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020 ("business rent or lease payments"); 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 ("business utility payments").
- d. covered operations expenditures: payments for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting of tracking of supplies, inventory, records, and expenses.
- e. covered property damage costs: costs related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that were not covered by insurance or other compensation.
- f. covered supplier costs: expenditures made to a supplier of goods for the supply of goods that are essential to the operations of the Borrower at the time at which the expenditure is made, and made pursuant to a contract, order, or purchase order in effect prior to the beginning of the Cover Period (for perishable goods, the contract, order, or purchase order may have been in effect before or at any time during the Cover Period)
- g. covered worker protection expenditures: operating or capital expenditures that facilitate the adaption of the business activities of an entity to comply with the requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration, or any equivalent requirements established or guidance issued by a State or local government, during the period starting March 1, 2020 and ending on the date which the national emergency declared by the President with respect to the Coronavirus Disease 2019 (COVID-19) expires

related to maintenance standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19, but does not include residential real property or intangible property.

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.

### **How do I know how much of my PPP Loan will be forgiven?**

The amount forgiven will be determined by the amount of eligible expenses you pay over the eight-week to 24-week covered period following the date of loan disbursement, as well as the documentation provided of the eligible expenses.

A minimum of 60% of your requested forgiveness amount must go towards payroll costs. The remaining 40% should be used towards other forgivable purposes, such as rent, utilities, mortgage interest, etc.

### **When does my covered period start?**

The borrower can elect either the PPP loan disbursement date as the start of their covered period or the Alternative Payroll Covered Period if they received their PPP loan before January 1, 2021. A borrower qualifies for the Alternative Payroll Covered Period if they have a payroll cycle that is bi-weekly or more frequent. If the borrower qualifies and elects to use the Alternative Payroll Covered Period, the start of the borrower's Covered Period will begin on the first day of the first payroll cycle in the covered period.

Treasury/SBA acknowledge that the 8-week covered period may not align with the borrower's payroll cycle, so they are allowing the borrower to elect to use this alternative payroll covered period when borrower has a bi-weekly or more frequent payroll cycle.

The borrower can choose to have their covered period end any day between the eight-week to 24-week cover period.

### **Are payroll costs for expenses actually paid during the eight-week to 24-week cover period, or can they be used for payroll costs incurred but not yet paid? (cash vs. accrual method)**

Borrowers are generally eligible for forgiveness for both payroll costs paid, and payroll costs incurred during the eight-week to 24-week Covered Period. Payroll costs are considered paid on the day that paychecks are distributed, or the Borrower originates an ACH credit transaction, while 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 are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the Covered Period.

### **Are we required to immediately bring back previously laid off employees? What about for employees who refuse to come back to work due to compromised status?**

You are not restricted by the CARES Act from delaying bringing employees back to work, but it may impact the amount of loan forgiveness. The Loan Forgiveness Application calculates FTEs for loan forgiveness for the period immediately following funding of the loan. Failure to fill open positions may limit an employer's ability to reach the minimum 60% threshold for payroll costs, which can also reduce the forgivable loan amount.

There is also nothing prohibiting employers from hiring additional employees over the number used in calculating loan amount in the original loan application. Employers should fill any open positions as soon as possible to avoid a reduction in loan forgiveness. Employers may also continue paying employees who are not actively working, at a minimum of 75% of their regular salary or hourly wages in order to avoid a reduction.

### **I laid off or reduced salaries for some employees before applying for the PPP Loan. Can I rehire or increase pay for those employees?**

The purpose of the program is to return employees to work and payroll. In order to meet that requirement, you should rehire any staff that were laid off or put on furlough and reinstate any pay that was decreased by more than 25% to meet the requirements for forgiveness before the end of your covered period.

### **Do I have to bring back the total number of employees or just pay 60% of the PPP Loan towards payroll regardless of the number of employees or hours?**

The Loan Forgiveness Application looks at the average total number of FTEs over the eight-week to 24-week covered period as well as total payroll costs. However, in certain circumstances, you can get FTE credit during the covered period for FTEs who are not actively working, so long as those employees still received at least 75% of their regular pay. See PPP Schedule A Worksheet, Table 1 on the Loan Forgiveness Application.

Unfortunately, there are too many moving parts related to FTEs and reduction in salary or hourly rate to be able to provide a clear answer. Remember that a minimum of 60% of loan amount must go towards payroll costs to avoid a reduction in loan forgiveness; however, reductions in forgiveness may apply for any reductions in FTE or compensation.

### **What are the Safe Harbors and exemptions for FTE reductions?**

Any FTE reductions that fall into any one of these cases do not reduce the Borrower's loan forgiveness:

1. 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 to its FTE employee levels in the Borrower's pay period that included February 15, 2020 by no later than (i) December 31, 2020, for a PPP loan made before December 27, 2020 or (ii) the last day of the Covered Period, for a PPP loan made after December 27, 2020.
2. any positions for which the Borrower made a good-faith, written offer to rehire an individual who has an employee on February 15, 2020, and the Borrower was unable to hire similarly qualified employees for unfilled positions on or before (a) December 31, 2020 for a PPP loan made before December 27, 2020 or (b) the last day of the Covered Period for a PPP loan made after December 27, 2020.
3. 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 Covered Period, and the employee rejected the offer.
4. Any employees who during the Covered Period or Alternative Covered Period:
  - a. Were fired for-cause,
  - b. Voluntarily resigned, or
  - c. Voluntarily requested and received a reduction of their hours
5. 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, 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.

In all the above, include FTE as if you had that previous employee unless you filled the position with a new employee.

### **What if my payroll costs changed during the Covered Period?**

If your payroll costs change due to a reduced number in full-time employees, then your loan forgiveness amount will be reduced proportionately.

If your payroll costs change due to reduced salaries, your eligible amount of forgiveness will be reduced if your total payroll costs fall below 60% of the total loan amount.

If an employee earns in excess of \$100,000 but experienced a salary reduction, these salaries are not factored into the calculation.

### **How do I calculate my payroll costs if my loan funds are received in the middle of a pay period?**

A borrower's "Covered Period" begins on the date the PPP loan funds are disbursed by the lender. The eight-week to 24-week period can be backdated to a period prior to receipt of loan funds. However, if you received your PPP loan before January 1, 2021 then there is an "Alternative Payroll Covered Period" for employers who use a "biweekly (or more frequent) payroll schedule." The Alternative Payroll Covered Period allows borrowers to start their eight-week to 24-week period "on the first day of their first pay period following their PPP Loan Disbursement Date." The Loan Forgiveness Application Instructions give the following example:

If the Borrower 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 (or June 20, for an 8-week covered period).

Borrowers who elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in the application to "the Covered Period or the Alternative Payroll Covered Period." See the Loan Forgiveness Application for additional details.

### **Can you explain the Covered Period for FTE count vs. the December 31st week/end of the Covered Period ending FTE count?**

The (a) December 31, 2020 for a PPP loan made before December 27, 2020 or (b) the last day of the Covered Period, for a PPP loan made after December 27, 2020, the date is used for determining whether a borrower qualifies for a Safe Harbor from a reduction in loan forgiveness due to either a reduction in FTEs or a reduction in compensation.

Borrowers should carefully document any of the above situations to qualify for an exception.

### **I have extended offers to some of my employees who were laid off and now they are refusing to come back to work? Will my loan forgiveness be impacted as a result?**

No, it will not impact the FTE calculation. The SBA has confirmed that if an employer makes a "good faith, written offer of rehire" to their employees, and those employees refuse the offer to return to work, the borrower will not be penalized and those employees will not be counted towards a reduction in headcount. The borrower needs to provide documentation that they made an offer of rehire and that the employee has rejected the offer.

It may, however, impact the total amount of payroll that can be forgiven if it reduces the amount you will pay during the Covered Period to a level below 60%.

### **Are bonuses and commissions included in payroll costs?**

Yes, the CARES Act defines the term "payroll costs" broadly to include compensation in the form of salary, wages, and commissions. Additionally, if a borrower pays furloughed employees their salary, wages, or commissions during the covered period, those payments are eligible for forgiveness as long as they do not exceed an annual salary of \$100,000 as prorated for the covered period (for 24 weeks, a maximum of

\$46,154 per individual, or for eight weeks, a maximum of \$15,385 per individual). However, the salary cap is different for owners.

### **Do lease payments include payment for personal property such as business vehicles, as well as real property?**

The Loan Forgiveness Application includes covered rent obligations “business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020.” Lease payments for business vehicles generally should qualify, provided that the lease was in force before February 15, 2020.

### **What are considered covered utility expenses?**

The Loan Forgiveness Application states that covered utility payments are “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.”

Like all nonpayroll costs, forgivable utility payments “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.”

### **Does interest accrue during the forgiveness application period?**

Yes. Interest begins accruing on the date the loan is funded. The SBA will pay interest through the date the bank receives the forgiveness money. The Borrower will be responsible for any interest accrued on any un-forgiven portions of a loan, if applicable.

### **Is there a deadline to apply for loan forgiveness?**

Borrowers have 10 months after the end of their 24-week Covered Period to apply for forgiveness. We encourage Borrowers to apply as early as possible.

### **What documentation do I need to include in my application for loan forgiveness?**

Along with either the 3508EZ or 3508 Application, Borrowers must submit documentation verifying the eligible cash compensation and non-cash benefit payments from the Borrower’s Covered Period consisting of each of the following:

- 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 Borrower’s Covered Period:
  - 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.
- 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)).

Further, the 3508 Applications must also submit FTE and Nonpayroll documentation. The FTE documentation must show one of the following:

- the average number of FTE employees on payroll per week employed by the Borrower between February 15, 2019, and June 30, 2019;
- the average number of FTE employees on payroll per week 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 week employed by the Borrower between February 15, 2019 and June 30, 2019; between January 1, 2020, and February 29, 2020; or any consecutive 12-week period between February 15, 2019 and February 15, 2020. (Documents submitted may cover periods longer than the specific time period).

Lastly, 3508/3508EZ Applications must also submit Nonpayroll documentation verifying the 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 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.
- 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.
- 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.
- Covered operations expenditures: Copy of invoices, orders, or purchase orders paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments.
- Covered property damage costs: Copy of invoices, orders, or purchase orders paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments and documentation that the costs were related to property damage and vandalism or looting due to public disturbances that occurred during 2020 and such costs were not covered by insurance or other compensation.
- Covered supplier costs: Copy of contracts, orders, or purchase orders in effect at any time before the Covered Period (except for perishable goods), copy of invoices, orders, or purchase orders paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments.
- Covered worker protection expenditures: Copy of invoices, orders, or purchase orders paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments, and documentation that the expenditures were used by the Borrower to comply with applicable COVID-19 guidance during the Covered Period.

Other than those documents Borrower's must submit, there are many documents that each Borrower is required to maintain, but not submit. See SBA Form 3508 Revised 1/19/21, Page 12-13, SBA Form 3508EZ Revised 1/19/21, Page 8-9, or SBA Form 3508S Revised 1/19/21, Page 6 for more details.

### **When will I know how much forgiveness I qualify for?**

You should receive a response within 150 days of the submission of your completed application for loan forgiveness. If we are missing any documentation, we will request that as soon as we determine that the application packet is not complete. An incomplete application could delay the process, so we encourage you to review your submission for completeness. Of the 150 days, Coastal has 60 days to review the application and make a decision regarding loan forgiveness. If Coastal decides the borrower qualifies for loan forgiveness for some or all of the amount of the loan applied for, we will submit it to the SBA for review. The SBA will then have 90 days to remit to Coastal the appropriate forgiveness amount and interest accrued through the date of payment.

### **What happens if some of my loan is not forgiven?**

Any outstanding principal balance and/or interest that has accrued on the unforgiven loan amount must be repaid. Payments will begin 10 months plus 24 weeks following the loan disbursement, with interest accruing at a rate of 1% of the loan amount. The total remaining principal and interest must be repaid according to the terms of the loan, subject to a minimum maturity date of five years since the loan's disbursement.

### **What are some reasons my loan would require full repayment?**

Your loan might be denied in full if the funds were not used for eligible expenses during the Covered Period, or you failed to submit sufficient documentation of those expenses. Also, your loan would not be forgiven if you fail to submit your application for PPP Loan Forgiveness within 10 months after the end of the 24-week covered period. Other than the cost of not having your loan forgiven, there are other penalties involved as

well. For example, a Borrower that makes a knowingly false statement to obtain forgiveness can be punished with fines, criminal charges, and jail time of not more than thirty years. See *18 U.S.C. 1014*.

### **What are some reasons I would be considered ineligible?**

If you are determined to be an ineligible business, including:

- Businesses primarily engaged in lending, investments, or to an otherwise eligible business engaged in financing or factoring.
- Businesses with more than 500 employees or whose principal place of business is outside of the United States and that do not fit into any other SBA alternate size standard.
- Ineligible non-profits – ONLY 501(c)(3) non-profits, 501(c)(19) veterans' organizations, 501(c)(6) and SBA-designated tribal business concerns with 500 or fewer employees whose principal place of residence is in the United States are eligible.
- Applicant is a franchise that is not SBA approved.
- The business was not in operation on February 15, 2020, or earlier.
- An owner of 20% or more of the equity of the applicant is presently incarcerated or, for any felony, presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of, pleaded guilty or nolo contendere to, or commenced any form of parole or probation (including probation before judgment) for, a felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance within the last five years or any other felony within the last year.
- Household employer (individuals who employ household employees such as nannies or housekeepers)
- Engaged in an activity that is illegal under federal, state, or local law.

### **I am self-employed and have a PPP loan. What amount of my loan is eligible for forgiveness?**

The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. However, for self-employed applicants, forgiveness for owner compensation is limited to 8/52 of 2019 net profit (up to \$15,385) for an eight week covered period or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833) for a 24-week covered period, but excluding any qualified sick leave equivalent amount for which a credit is claimed under section 7002 of the Families First Coronavirus Response Act (FFCRA) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA. Additionally, payments of interest on mortgage obligations on real or personal property, rent payments on lease agreements in force, and utility payments under service agreements dated before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (Business mortgage, rent, and utility payments respectively).

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