

U.S. Small Business Administration

Payroll Protection Program

Relevant Guidance on Forgiveness

We Hope You Smile!



References and Some Basic Information

Payroll Protection Program
Forgiveness

All references are from the following documents:

1. **Official Guidance**
   https://www.sba.gov/document/policy-guidance--ppp-interim-final-rule
2. Paycheck Protection Program Fact Sheet for Borrowers
   https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf
3. Paycheck Protection Program FAQs
   https://www.sba.gov/document/support--faq-lenders-borrowers
4. The CARES Act
   https://www.congress.gov/bill/116th-congress/house-bill/748/
5. Disbursement Guidance
   https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Disbursements.pdf
6. Supplemental Official Guidance of 4/20
   https://www.federalregister.gov/documents/2020/04/20/2020-08257/business-loan-program-temporary-changes-paycheck-protection-program-additional-eligibility-criteria

Full Time Equivalents (FTEs)

(from FAQs)

- **…** for purposes of loan forgiveness, the CARES Act uses the standard of "fulltime equivalent employees" to determine the extent to which the loan forgiveness amount will be reduced in the event of workforce reductions.

What is 'Payroll Cost'

III 2 ii f

Payroll costs consist of

- compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips);
- payment for vacation, parental, family, medical, or sick leave;
- allowance for separation or dismissal;
- payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement;
- payment of state and local taxes assessed on compensation of employees;

- and for an independent contractor or sole proprietor,
  - wage, commissions, income, or net earnings from self-employment or similar compensation.

How Calculate PPP Loan Amounts?

III 2 ii e

How do I calculate the maximum amount I can borrow?

The following methodology, which is one of the methodologies contained in the Act, will be most useful for many applicants.

Step 1: Aggregate payroll costs (defined in detail below in f.) from the last twelve months for employees whose principal place of residence is the United States.

Step 2: Subtract any compensation paid to an employee in excess of an annual salary of $100,000 and/or any amounts paid to an independent contractor or sole proprietor in excess of $100,000 per year.

Step 3: Calculate average monthly payroll costs (divide the amount from Step 2 by 12).

Step 4: Multiply the average monthly payroll costs from Step 3 by 2.5.

Step 5: Add the outstanding amount of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020, less the amount of any “advance” under an EIDL COVID-19 loan (because it does not have to be repaid).

When Does The 8-Week Period Start

- The lender must make a one-time, full disbursement of the PPP loan within ten calendar days of loan approval
- For the purposes of this rule, a loan is considered approved when the loan is assigned a loan number by SBA.
- For loans that received an SBA loan number prior to the posting of this interim final rule but have not yet been fully disbursed… the ten calendar-day period described above begins on April 28, 2020.
- … lenders are not responsible for delays in disbursement attributable to a borrower's failure to timely provide required loan documentation, including a signed promissory note.
- Loans for which funds have not been disbursed because a borrower has not submitted required loan documentation within 20 calendar days of loan approval shall be cancelled by the lender

Details on Forgiveness

How Much Can Be Forgiven?

Section III 2 ii o (also in III, III 2 ii t v)

Can my PPP loan be forgiven in whole or in part?

- Yes. The amount of loan forgiveness can be up to the full principal amount of the loan and any accrued interest.
- The actual amount of loan forgiveness will depend, in part, on
  - the total amount of payroll costs,
  - payments of interest on mortgage obligations incurred before February 15, 2020
  - rent payments on leases dated before February 15, 2020
  - utility payments under service agreements dated before February 15, 2020,
  - over the eight-week period following the date of the loan.
- However, not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs.

Again… How Much Forgiven?

The following comes from the Fact Sheet entitled "*PAYCHECK PROTECTION PROGRAM (PPP) INFORMATION SHEET: BORROWERS*"

How much of my loan will be forgiven? You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent, and utilities payments over the 8 weeks after getting the loan… not more than 25% of the forgiven amount may be for non-payroll costs.

You will also owe money if you do not maintain your staff and payroll.

- Number of Staff: Your loan forgiveness will be reduced if you decrease… headcount.
- Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than $100,000 annualized in 2019.
- 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.

Requesting Forgiveness

(III 2 ii t, iv) Documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight week period following this loan will be provided to the lender.

(From FAQ) … The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days

(4/20 Supplemental Guidance III 1 g) … submit Form 941 and state quarterly wage unemployment insurance tax reporting forms or equivalent payroll processor records that best correspond to the covered period (with evidence of any retirement and health insurance contributions).

The Lender's Role with Forgiveness

III 3 c, *What do Lenders Need to Know and Do*

Can lenders rely on borrower documentation for loan forgiveness?

- Yes. The lender does not need to conduct any verification if the borrower submits documentation supporting its request for loan forgiveness and attests that it has accurately verified the payments for eligible costs.
- The Administrator will hold harmless any lender that relies on such borrower documents and attestation from a borrower.
- … lender reliance on a borrower's required documents and attestation is necessary and appropriate in light of section 1106(h) of the Act, which prohibits the Administrator from taking an enforcement action or imposing penalties if the lender has received a borrower attestation.

Who is Liable?

III 1

Lenders must comply with the applicable lender obligations set forth in this interim final rule, but will be held harmless for borrowers' failure to comply with program criteria; remedies for borrower violations or fraud are separately addressed in this interim final rule.

From the CARES Act, Section 1107 Section a 1 3:

$25,000,000 under the heading "Small Business Administration—Office of Inspector General", to remain available until September 30, 2024, for necessary expenses of the Office of Inspector General of the Administration in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.);

… Stay Tuned…

Section III 2 ii o

SBA will issue additional guidance on loan forgiveness.

A Simple Example

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Average FTE	10	Obtained from hours worked or full-time salaried employees
12 Month Payroll	$120,000	Obtained from your payroll records

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12 Month Payroll	$120,000	Obtained from your payroll records
Average Monthly Payroll	$10,000	(12 Month Payroll / 12 months)

Simple Example

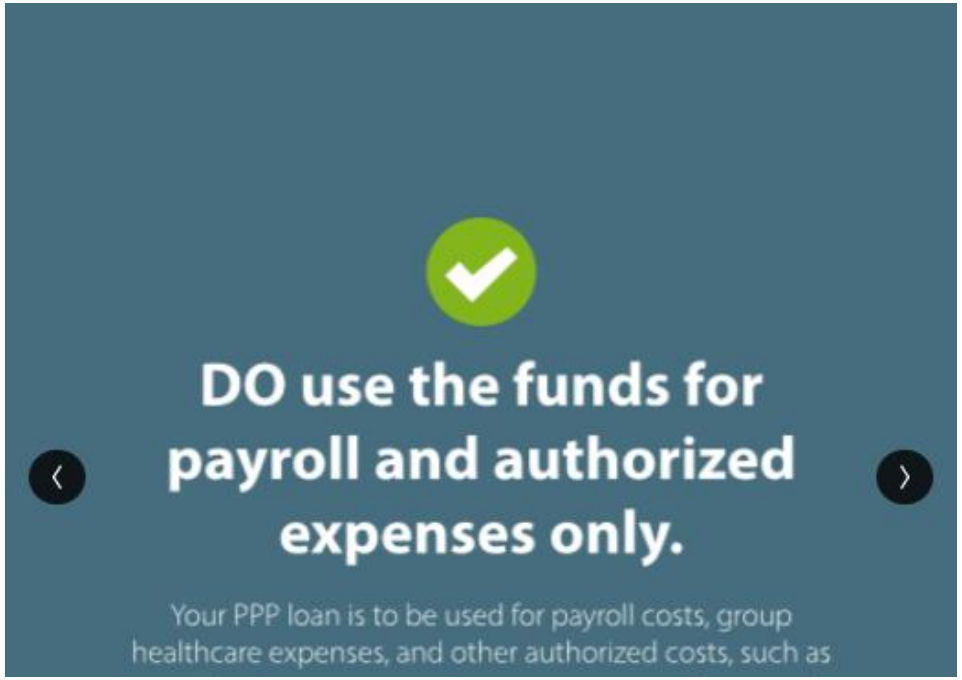
12 Month Payroll	$120,000	Obtained from your payroll records
Average FTE	10	Obtained from hours worked or full-time salaried employees
Average Monthly Payroll	$10,000	Monthly payroll / 12 months

Loan Amount	$25,000	Average Monthly Payroll * 2.5
- Amount for payroll (75%)	*$18,750*	
- Amount for Rent, Mortgage Interest, and Utilities	*$6,250*	

From Texas Citizens Bank

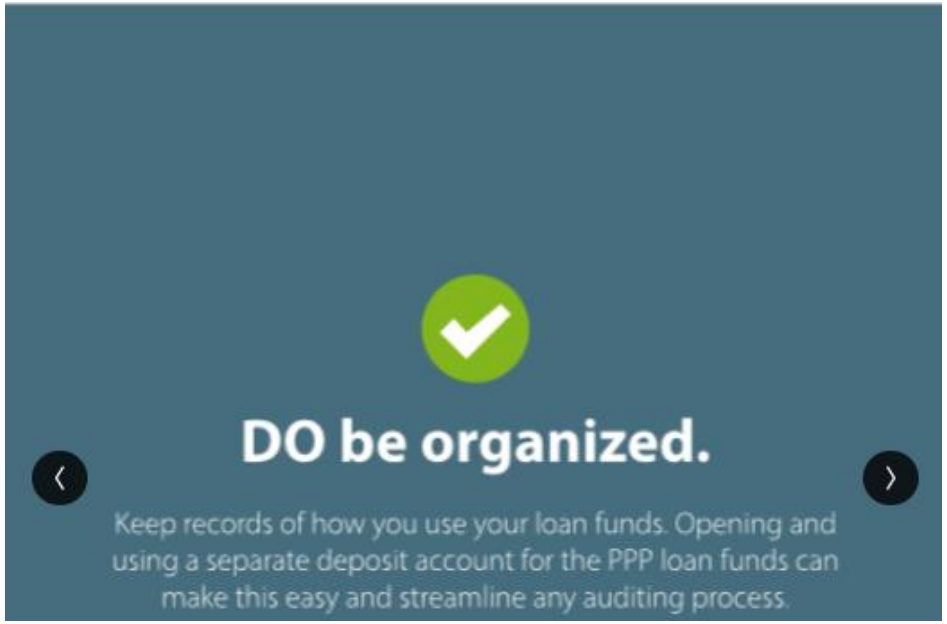
Guidance To Their Clients

PPP Do's & Don'ts
Texas Citizens Bank





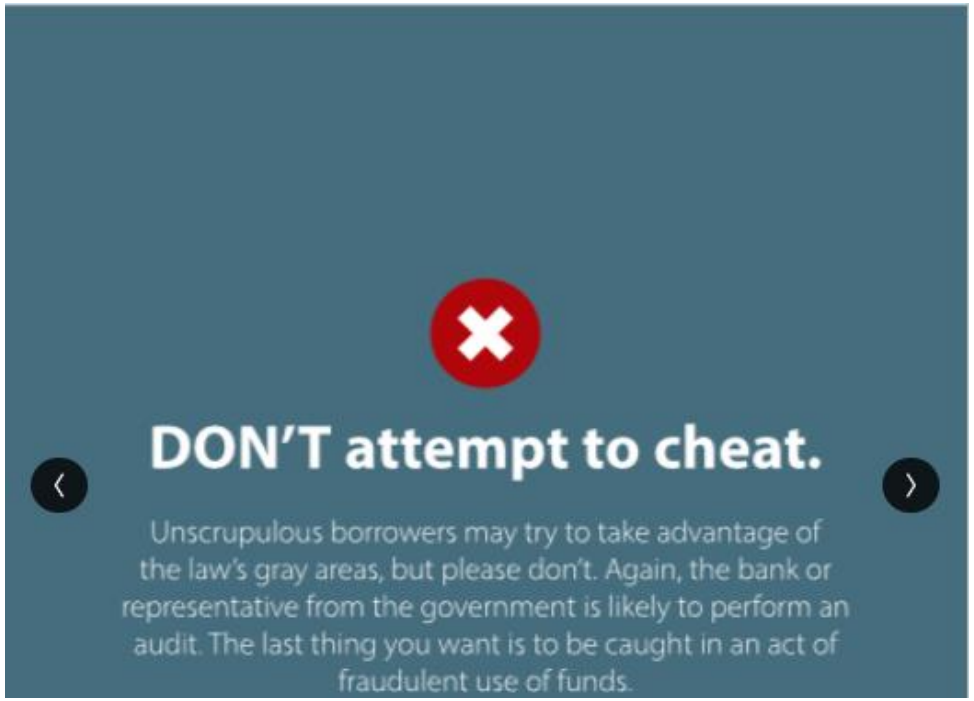
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Frequently Asked Questions

PPP Forgiveness

Hiring / Re-Hiring

1. We haven't yet had a staff reduction. Do we have to maintain staff thru June 30th? Or, just the eight-week period?

2. How soon do I have to rehire my employees?

3. Do all employees need to return at the same time, or can some stay on unemployment for a while?

4. What if we have someone doesn't come back until after the 8-week period has started? How we do we include them?

Using the PPP Funds (1 of 2)

1. Can I include part time employees in the forgiven wages?

2. Can I pay all of the payroll to my employees as a lump sum at one time?

3. Can I pay any of my employees more than they normally make, or for more hours than they normally work?

4. Let’s say I receive $850K for the PPP and after 8 weeks I only use $600K. Will the $250K I didn't use turn into a loan at 1% for 2 years, or will I have to return that $250K?

Using the PPP Funds (2 of 2)

1. If an employee chooses to stay on unemployment, or not come back at all, do I just send their portion back to the bank, or can I disperse their portion to the rest of the employees?

2. We processed payroll the day that we received the loan. Paychecks included the week before disbursement of the loan. Are those payments from the week before eligible for forgiveness even though we were paying staff wages accrued during the prior week?

‘Assorted’

1. What documents do I submit to properly document forgiveness?

2. How will an FTE be calculated? *Can we take our total payroll hours each pay period (in our case we pay biweekly so it's 2 weeks/80 hours) for the 2 baseline option periods we can choose from and divide by 80 hours to get the FTE?*

3. I own two companies. One (that received PPP funds) rents the property from the other under contract. Since these entities have common ownership, will the rent payment from one to the other be allowed?

4. I am a sole proprietor and included my earnings on the wages as allowed by SBA. I am not part of the normal payroll; instead, I calculate earnings at the end of the month after all expenses. How do I document my distributions so it will be forgiven?

Don’t Forget to Smile!





U.S. Small Business Administration