

Borrower FAQs for Paycheck Protection Program Loans and Forgiveness

***Note:** The first 10 FAQs address the PPP Flexibility Act and loan forgiveness topics, and the remaining FAQs address PPP Loan and loan application topics in general. We strongly encourage you to also visit the US Treasury CARES Act page for continued updates on all PPP-related topics:*

<https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

1. What is the PPP Flexibility Act of 2020 and how did it affect the CARES Act and Paycheck Protection Program Loans?

Every single business is different — ownership structures, employment practices, payroll cycles, and expense structures. No economic program can possibly fit every scenario. The CARES Act and PPP are no exceptions.

Many businesses have struggled with certain PPP requirements, especially because of the extended economic damage caused by COVID-19. The Paycheck Protection Program Flexibility Act of 2020 (signed into law on June 5th) attempts to address some of the more troubling requirements when applying PPP relief to actual business situations.

Below are the key changes made by the Flexibility Act. Except for the loan maturity minimum, the changes automatically apply to all existing and future PPP loans.

- Expands the period within which the PPP loan proceeds must be used (the “Covered Period”) from eight weeks to 24 weeks (but not later than December 31, 2020);
 - Any existing PPP borrower may choose to continue using the original authorized eight-week period;
- Provides additional flexibility by changing the 75/25% required payroll-to-nonpayroll cost expenditures to 60/40%;
- Extends the safe harbor to rehire or restore pay reductions (exceeding 25%) from June 30, 2020, to December 31, 2020;
- Potentially avoids reductions in your loan forgiveness due to layoffs or furloughs, if you are unable to recover to pre-COVID full time equivalent employee (“FTE”) levels, but you can document that you have, in good faith, been unable to:
 - rehire individuals who were employees on February 15, 2020; and
 - hire similarly qualified employees by December 31, 2020;

OR

 - return to the February 15, 2020 level of business activity due to federal requirements or guidelines, pertaining to special sanitation, social distancing, or other worker or customer safety requirements during the period from March 1, 2020, through December 31, 2020;
- Allows at least five years to repay the unforgiven portion of the PPP loan for loans approved by the SBA on or after June 5, 2020;

- Lenders and borrowers can mutually agree that existing PPP loans (made before June 5, 2020) also may have at least five years (instead of two years) to repay the loan;
- Extends the deferral period for loan principal, interest, and fees, until i) the date that the loan forgiveness amount is remitted by the SBA to the lender, or ii) ten months after the end of the 24-week period if you fail to apply for loan forgiveness;
- Allows businesses that receive PPP loan forgiveness to defer all 2020 social security taxes until 2021 and 2022.

2. Will PPP loans be forgiven?

A borrower is eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week period (or 24-week period if that option is chosen) beginning on the date of the origination of the loan:

- Payroll costs, including benefits (using the same definition of payroll costs used to determine loan eligibility)
- Interest on the mortgage obligation incurred in the ordinary course of business incurred before February 15, 2020
- Rent on a lease agreement in force before February 15, 2020
- Payments on utilities, including electricity, gas, water, transportation, telephone and Internet access for service that began before February 15, 2020; and

One important addition in the Interim Final Rule is that forgiveness will fully apply if you spend 60% or more of the loan funds on payroll costs. This means that only 40% of the loan funds can be used for rent, utilities, and mortgage interest. If the 60/40 ratio is not met, partial forgiveness may apply.

Forgiven amounts will not be considered cancellation of indebtedness income for federal tax purposes.

3. Can the amount forgiven be reduced?

The amount of loan forgiveness calculated above is reduced if there is a reduction in the number of employees (i.e., failure to maintain the average number of full-time equivalent employees versus the period from either February 15, 2019, through June 30, 2019, or January 1, 2020, through February 29, 2020, as selected by the borrower) or a reduction of greater than 25% in wages paid to employees. Specifically, the amount forgiven is reduced to the extent that compensation for any individual making less than \$100,000 per year is reduced by more than 25 percent measured against the most recent full quarter.

Reductions in the number of full-time employees or compensation occurring between February 15, 2020, and April 26, 2020 will be ignored if the action (layoff or salary reduction) is reversed by December 31, 2020.

4. How do I receive forgiveness on my PPP loan?

Once the eight-week or 24-week period covered period has ended, you can apply for forgiveness on your loan. In this application, you must include:

- a. Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings. Note that at least 60% of the forgiven amount must have been used for payroll.
- b. Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.
- c. Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use.

5. What happens after the forgiveness period?

Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan at 1.00% interest with a term of 2 years (five years for loans approved by the SBA on or after June 5, 2020). Principal and interest will continue to be deferred until a) the date that the loan forgiveness amount is remitted by the SBA to the lender, or b) ten months after the end of the 24-week period if you fail to apply for loan forgiveness. The clock does not start again.

6. How is the forgiveness amount calculated?

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over \$100,000):

- Payroll costs plus any payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation)

The lender must decide on the forgiveness request within sixty (60) days of submission.

7. What amounts shall be eligible for forgiveness?

The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered period on:

- a. Payroll costs paid and payroll costs incurred during the Covered Period or Alternative Payroll Covered Period including salary, wages, and tips, up to \$15,385 per individual (equivalent to eight weeks of \$100,000 annualized pay), as well as covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums);
- b. Owner compensation replacement, *calculated based on 2019 net profit, with forgiveness of such amounts limited to the lesser of \$15,385 or eight weeks' worth (8/52) of 2019 net profit, 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) (Pub. L. 116–127) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA;

- c. Payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, but not prepayment or payment of principal) on any business mortgage obligation on real or personal property to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);
- d. Rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments);
- e. Utility payments including electricity, gas, water, transportation, telephone or internet access under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).

8. What documentation will I be required to submit to my lender with my request for loan forgiveness?

Payroll:

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

- a. Bank account statements or third-party service provider payroll reports documenting the amount of cash compensation paid to employees
- b. Tax forms (or equivalent third-part payroll 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 wage unemployment insurance tax reporting and unemployment 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 employee contributions to employee health insurance and retirement plans that the Borrower included in the forgiveness amount. (PPP Schedule A, lines 6 and 7)

Owner compensation replacement:

No additional forms necessary, this amount is capped at \$15,385 per individual or the eight-week equivalent of their applicable compensation in 2019 (documentation for this was already submitted as part of the original loan application), whichever is lower.

FTE:

Documentation establishing the reference period average FTE (as selected by the borrower)

- a. The average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019;
- b. The average number of FTE employees on payroll per month 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 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. 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.

Nonpayroll:

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.

9. What should a lender review for forgiveness?

For all PPP Loan Forgiveness Applications, each lender shall:

- i. Confirm receipt of the borrower certifications contained in the Loan Forgiveness Application Form.
- ii. Confirm receipt of the documentation borrowers must submit to aid in verifying payroll and nonpayroll costs, as specified in the instructions to the Loan Forgiveness Application Form.
- iii. Confirm the borrower's calculations on the borrower's Loan Forgiveness Application, including the dollar amount of the (A) Cash Compensation, Non-Cash Compensation, and Compensation to Owners claimed on Lines 1, 4, 6, 7, 8, and 9 on PPP Schedule A and (B) Business Mortgage Interest Payments, Business Rent or Lease Payments, and Business Utility Payments claimed on Lines 2, 3, and 4 on the PPP Loan Forgiveness Calculation Form, by reviewing the documentation submitted with the Loan Forgiveness Application.
- iv. Confirm that the borrower made the calculation on Line 10 of the Loan Forgiveness Calculation Form correctly, by dividing the borrower's Eligible Payroll Costs claimed on Line 1 by 0.75.

Providing an accurate calculation of the loan forgiveness amount is the responsibility of the borrower, and the borrower attests to the accuracy of its reported information and calculations on the Loan Forgiveness Application. Lenders are expected to perform a good-faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning amounts eligible for loan forgiveness. For example, minimal review of calculations based on a payroll report by a recognized third-party payroll processor would be reasonable. By contrast, if payroll costs are not documented with such recognized sources, more extensive review of calculations and data would be appropriate. The borrower shall not receive forgiveness without submitting all required documentation to the lender.

As the First Interim Final Rule 3 indicates, lenders may rely on borrower representations. If the lender identifies errors in the borrower's calculation or material lack of substantiation in the borrower's supporting documents, the lender should work with the borrower to remedy the issue. As stated in paragraph III.3.c of the First Interim Final Rule, the lender does not need to independently verify the borrower's reported information if the borrower submits documentation supporting its request for loan forgiveness and attests that it accurately verified the payments for eligible costs.

10. What is the timeline for the lender's decision on a loan forgiveness application?

The lender must issue a decision to SBA on a loan forgiveness application not later than 60 days after receipt of a complete loan forgiveness application from the borrower. That decision may take the form of an approval (in whole or in part); denial; or (if directed by SBA) a denial without prejudice due to a pending SBA review of the loan for which forgiveness is sought. In the case of a denial without prejudice, the borrower may subsequently request that the lender reconsider its application for loan forgiveness, unless SBA has determined that the borrower is ineligible for a PPP loan.

When the lender issues its decision to SBA approving the application (in whole or in part), it must include (1) the PPP Loan Forgiveness Calculation Form; (2) PPP Schedule A; and (3) the (optional) PPP Borrower Demographic Information Form

The lender must confirm that the information provided by the lender to SBA accurately reflects lender's records for the loan, and that the lender has made its decision in accordance with the requirements set forth. If the lender determines that the borrower is entitled to forgiveness of some or all of the amount applied for under the statute and applicable regulations, the lender must request payment from SBA at the time the lender issues its decision to SBA. SBA will, subject to any SBA review of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its decision to SBA. If applicable, SBA will deduct EIDL Advance Amounts from the forgiveness amount remitted to the Lender

When the lender issues its decision to SBA determining that the borrower is not entitled to forgiveness in any amount, the lender must provide SBA with the reason for its denial, together with (1) the PPP Loan Forgiveness Calculation Form; (2) PPP Schedule A; and (3) the (optional)

PPP Borrower Demographic Information Form (if submitted to the lender). The lender must confirm that the information provided by the lender to SBA accurately reflects lender's records for the loan, and that the lender has made its decision in accordance with the requirements.

The lender must also notify the borrower in writing that the lender has issued a decision to SBA denying the loan forgiveness application. SBA reserves the right to review the lender's decision in its sole discretion. Within 30 days of notice from the lender, a borrower may request that SBA review the lender's decision by reviewing the loan.

Enabling SBA to use the statutory 90-day period to review the PPP loan and forgiveness documentation is an appropriate procedural protection to prevent fraud or misuse of PPP funds, ensure that recipients of PPP loans are within the scope of entities that the CARES Act is intended to assist, and confirm compliance with the PPP requirements set forth in the statute, rules, and guidance. This protection is also important in light of the large number and diverse types of PPP lenders, many of which were not previously SBA participating lenders and which were approved rapidly in order to enable financial assistance to be provided as rapidly as feasible to millions of small businesses. SBA will use the 90-day period to help ensure that applicable legal requirements have been satisfied.

11. What is the last day that PPP loan applications will be approved?

The Joint Statement (by Treasury Secretary Mnuchin and SBA Administrator Carranza issued June 8, 2020) announced that the upcoming new rules from Treasury will confirm that June 30, 2020, is the last date on which PPP loan applications can be approved.

12. What is the Paycheck Protection Program?

On Friday, March 27, Congress approved the CARES Act which includes the very important Paycheck Protection Program. This program will directly help small businesses (<500 employees) by providing cash-flow assistance through 100% federally guaranteed loans to employers who maintain their payroll during this emergency. If employers maintain their payroll, the loan amount is forgiven, as long as the loan funds are only used for permitted purposes (payroll costs, mortgage payments, lease obligations, interest on prior indebtedness, certain utilities, additional wages paid to tipped employees). The goal is to help workers remain employed, as well as help affected small businesses and our economy snap-back quicker after the crisis.

13. What types of businesses and entities are eligible to apply under the Paycheck Protection Program?

- a. Businesses and entities must have been in operation on February 15, 2020.
- b. Small business concerns, as well as any business concern, a 501(c)(3) nonprofit organization, a 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) that has fewer than 500 employees or fewer employees than established by the relevant industry code.

- c. Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.
- d. Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a North American Industry Classification System code beginning with 72, for which the affiliation rules are waived.
- e. Affiliation rules are also waived for any business concern operating as a franchise that is assigned a franchise identifier code by the Administration and company that receives funding through a Small Business Investment Company.

14. How much money can I borrow?

In general, eligible recipients are eligible to borrow the **lesser** of 2.5x Average Monthly Payroll Costs from 2019 or \$10 million. Payroll costs are defined as:

- a. the sum of payments of any compensation with respect to employees that is a:
 - b. salary, wage, commission, or similar compensation;
 - i. payroll costs are capped at \$100,000 on an annualized basis for each employee.
 - c. payment of cash tip or equivalent;
 - d. payment for vacation, parental, family, medical, or sick leave;
 - e. allowance for dismissal or separation;
 - f. payment required for the provisions of group health care benefits, including insurance premiums;
 - g. payment of any retirement benefit; and
 - h. payment of State or local tax assessed on the compensation of employees; or
 - i. the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in one year.

Ineligible payroll costs can be defined as:

- j. Compensation for any employee in excess of an annual salary over \$100,000 (note: you can include employee compensation up to the \$100,000 cap)
- k. Taxes imposed or withheld under Chapters 21, 22, or 24 of IRS Code during the covered period. These taxes are more commonly identified as FICA, Railroad Retirement Taxes, and Federal Income Taxes.
- l. Compensation for any employee whose principal residence is outside USA
- m. Qualified sick and/or family leave wages, for which a credit is allowed under Families First Coronavirus Response Act

15. What can loan proceeds be utilized for?

Loan proceeds can be utilized to pay payroll (including salaries and commissions or similar payments), group health payments, interest on a related mortgage, rent or lease payments, utilities, and interest on any debt incurred before February 15, 2020.

16. What interest expenses are considered eligible?

Any business-related interest payments on a mortgage or other debt obligation (excluding any prepayment or principal obligation) that was incurred before February 15, 2020.

17. What rent expenses are considered eligible?

Payments for business-related rent under a leasing agreement that was in force before February 15, 2020.

18. What utility expenses are considered eligible?

Payments for business related utilities (for the distribution of electricity, gas, water, transportation, telephone, or internet access) for which service began before February 15, 2020.

19. What items are required to apply under the Paycheck Protection Program?

Applicants are expected to provide the following items to be considered for a loan under the Paycheck Protection Program:

- a. Borrower certification required by the SBA
- b. Copies of payroll taxes reports filed with the IRS including quarterly 940, 941, 944, W-3, state income and unemployment tax filing reports for 2019 and the first quarter of 2020 (if applicable). See note above about eligible and ineligible payroll costs.
- c. Payroll reports for the preceding 12-month period (ending with your most recent payroll date). Such reports can/should include:
 - d. Gross wages for each employee
 - e. Paid time off for each employee
 - f. Vacation pay for each employee
 - g. Family medical leave pay for each employee
 - h. State and local taxes assessed on compensation of employees
 - i. Severance
 - j. List of employees that had salaries in excess of \$100,000 in 2019 and their corresponding salary
 - k. Documentation showing total of all health insurance premiums paid by the company for the immediately preceding 12-month period under the group health care plan.
 - l. Include all employees and company owners

- m. Document the sum of all retirement plan funding that was paid by the company-do not include funding that came from the employees from their paycheck deferrals.
- n. Include all employees and company owners
- o. Include 401k plans, Simple IRAs, SEP IRAs

Please note that as this new program evolves, additional documents may be requested, if needed.

20. What documents must be completed by the applicant?

PPP lenders will be required to consider whether an applicant was in operation on February 15, 2020, and either had employees for whom it paid salaries and payroll taxes. Applicants will not be required to demonstrate repayment ability.

Applicants are expected to complete the following items to be considered for the Paycheck Protection Program:

- Paycheck Protection Act Application Form Good Faith Certification completed, signed, and dated by an authorized business representative and initialed by any principal a 20% stake or greater stating that “the uncertainty of current economic conditions makes necessary the loan request to support ongoing operations of the eligible recipient”, “funds will be used to retain works and maintain payroll or make mortgage payments, lease payments, and utility payments”, “that the eligible recipient does not have an application pending for a loan under the Paycheck Protection Program for the same purpose and duplicative amounts of the applied for or received covered loan”, and “during the period beginning February 15,2020 and ending on December 31, 2020 that the eligible recipient has not received amounts under the Paycheck Protection Program for the same purpose and duplicative amounts of the applied for or received covered loan.”

21. Who needs to sign the application?

Questions 5-7 of the application, the Certifications and the application are to be completed, initialed/signed and dated by each applicant who is an Individual as well as each 20% or greater owner of an Applicant Business. All parties below are considered owners of the Applicant Business as defined in 13 CFR 120.10, as well as “principals.”

- a. For a sole proprietorship, the sole proprietor;
- b. For a partnership, all general partners, and all limited partners owning 20% or more of the equity in the firm;
- c. For a corporation, all owners of 20% or more of the corporation;
- d. For limited liability companies, all members owning 20% or more of the company;
and
- e. Any Trustor (if the Applicant is owned by a trust).

22. What are the benefits of receiving a loan under the Paycheck Protection Program?

Loans under the Paycheck Protection Program *require no collateral or personal guarantee*. Additionally, recipients of the Paycheck Protection Program are eligible for loan forgiveness of the indebtedness if they comply with the loan forgiveness requirements. Furthermore, the amount of loan forgiveness under the Paycheck Protection Program is non-taxable.

23. What are the primary terms of the PPP loans?

Any amount not forgiven as described above will bear interest rate of 1 percent and mature no later than 2 years after the amount of forgiveness is applied (five years for loans approved by the SBA on or after June 5, 2020). The deferral period for loan principal, interest, and fees, is extended until a) the date that the loan forgiveness amount is remitted by the SBA to the lender, or b) ten months after the end of the 24-week period if you fail to apply for loan forgiveness.

24. Can I get more than one PPP loan?

No, an entity is limited to one PPP loan. Each loan will be registered under a Taxpayer Identification Number at SBA to prevent multiple loans to the same entity.

25. What types of non-profits are eligible for the PPP?

All 501(c)(3) non-profits with 500 employees or fewer, or more if SBA's size standards for the non-profit allows. Please visit <https://www.sba.gov/size-standards/> to find out your non-profit's SBA size standards by number of employees. For example, churches and museums with fewer than 500 employees are eligible. You will need the 6-digit North American Industry Classification Code for your business.

26. Can an entity have both a PPP and EIDL loan?

Yes, an entity can have both a PPP and EIDL loan however, the proceeds from the EIDL loans cannot be used for covering payrolls costs.

27. What taxes are to be excluded when determining the loan amount?

Taxes imposed or withheld under chapters 21, 22, and 24 of the Internal Revenue Code of 1986 are to be excluded from payroll costs. These taxes are more commonly identified as FICA, Railroad Retirement Taxes, and Federal Income Taxes.

28. When can I apply?

- a. Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.

- b. Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- c. Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program.

29. What is my interest rate?

1.00% fixed rate

30. When do I need to start paying interest on my loan?

All payments are deferred until i) the date that the loan forgiveness amount is remitted by the SBA to the lender, or ii) ten months after the end of the 24-week period if you fail to apply for loan forgiveness.

31. When is my loan due?

In 2 years (or up to 5 years for loans made on or after June 5, 2020)

32. Can I pay my loan earlier than its scheduled maturity date?

Yes. There are no prepayments penalties or fees.

33. Do I need to first look for other funds before applying to this program?

No. We are waiving all the usual SBA requirement that you try to obtain some or all of the loan funds from other sources (i.e., we are waiving the Credit Elsewhere requirement).

34. Do I need to pledge any collateral for these loans?

No. Collateral is not required for loans funded under the PPP.

35. Do I need to personally guarantee this loan?

No. There is no personal guarantee requirement for loans funded under the PPP. However, if loan proceeds are used for fraudulent purposes, the U.S. Government will pursue criminal charges against you.

36. What tax documents are acceptable for an applicant business to submit for payroll documentation?

Copies of payroll taxes reports filed with the IRS including quarterly 940, 941, 944, state income and unemployment tax filing reports for 2019 and the first quarter 2020 (if applicable).

37. What documentation is needed for a self-employed individual applying under PPP?

- a. 2019 Schedule C of Individual Tax Return or;
- b. 2019 IRS Form 1099

38. What is the difference between Covered Period and Alternative Payroll Covered Period?

Covered Period: The eight-week (56-day) or 24-week (168-day) Covered Period of your PPP loan, starting on the first (if there are more than one) PPP Loan Disbursement Date. For example, if the Borrower 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, June 14.

Alternative Payroll Covered Period: Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56-day) or 24-week (168-day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date (the “Alternative Payroll Covered Period”). For 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, June 20. Borrowers who elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in this 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 this application to “the Covered Period” only.

39. What is the difference between allowable payroll costs paid and payroll costs incurred?

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).

40. Do independent contractors count as employees for purposes of PPP loan forgiveness?

No, independent contractors have the ability to apply for a PPP loan on their own, so they do not count for purposes of a borrower’s PPP loan forgiveness.

41. Are there any other restrictions on how I can use PPP loan proceeds?

Yes. At least 60% of the PPP loan proceeds shall be used for payroll costs. For purposes of determining the percentage of use of proceeds for payroll costs (but not for forgiveness purposes), the amount of any refinanced EIDL will be included.

42. Do student workers count when determining the number of employees for PPP loan eligibility?

Yes, student workers generally count as employees, unless (a) the applicant is an institution of higher education, as defined in the Department of Education's Federal Work-Study regulations, 34 CFR 675.2, and (b) the student worker's services are performed as part of a Federal Work-Study Program. Such programs generally provide part-time jobs for students with financial need, and their services are incident to and for the purpose of pursuing a course of study... Lenders may continue to rely on borrower certifications as part of their good faith review process.

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