

NFIB UPDATE

Weekly Briefing for Small Business

Beth Milito and Holly Wade

June 3, 2020 – 10 Keys to Maximizing PPP Loan Forgiveness & Your Questions Answered



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MBA's Fight COVID-19 is a group of MBA students from business schools around the US working with small businesses to respond to the COVID-19 crisis.

We provide **pro bono consulting support** to help businesses think through a variety of topics, including:

- Applying to federal funding programs (PPP, EIDL)
- Reaching more customers online
- Pivoting business strategy
- ...and more!

To learn more about MBA's Fight COVID-19 and to get matched with an MBA student, email Elizabeth.Milito@nfib.org

Economic Injury Disaster Loan

The SBA's EIDLs provide working capital to help small businesses survive until normal operations resume after a disaster.

- Payroll costs, including benefits,
- Fixed debts (mortgage, rent, lease),
- Accounts payable,
- Other bills.

How to Check Status of EIDL Application

By Phone 1-877-641-8202

Operating hours for this line are 7 AM EST, seven days a week.

By Email – disastercustomerservice@sba.gov

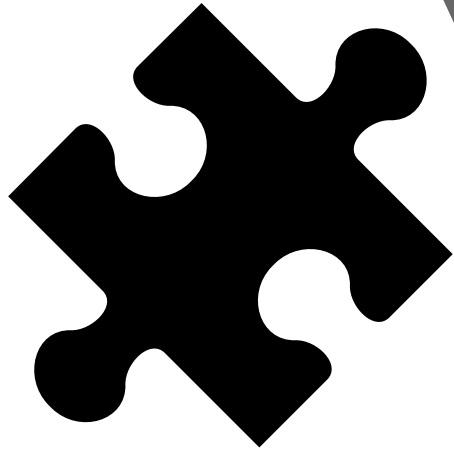
Use this method if you submitted your application by mail.

Online

NOTE – if you applied through the expedited COVID-19 portal, you will be unable to check your status online. If you applied through the SBA Economic Injury Disaster Loan Portal you can log on using the email address or username and password with which you registered when completing your online application. Once you've logged in, you'll be able to check the status of your loan.



10 Keys to Maximizing PPP Loan Forgiveness



Key #1 – Acknowledge the Purpose

- The CARES Act established the **Paycheck Protection Program (PPP)** to help small businesses **keep employees on payroll** (or maintain your own expected income in the case of sole proprietors or independent contractors) over eight weeks. Qualified businesses can borrow up to \$10 million at a 1% interest rate, calculated based on 2.5 times your average monthly payroll costs.
- For PPP loan forgiveness, you must use 100% of the loan for eligible expenses over 8 weeks and will incur a penalty if you do not reinstate your workforce to a level of full-time equivalent (FTE) employees and maintain wage levels.
- In some instances, to achieve maximize forgiveness, you **will** need to pay **employees** NOT to **work**.

Key #2 - Understand the Lingo

- PPP
- 75/25 rule
- Qualified expenses
- Covered period
- FTEE

PPP

The **Paycheck Protection Program** is a loan designed to incentivize small businesses to keep workers on payroll by offering complete loan forgiveness if the borrower's payroll level and employee head counts are maintained during an 8-week period.

75/25

As a general guideline, your business is eligible for loan forgiveness if you allocate **75% of the loan money used to keeping all the full-time equivalent staff on payroll, with no more than 25% allowed for other overhead.**

Qualified Expenses

Eligible expenses for PPP loan forgiveness

- **Payroll costs.** Salaries, wages, commissions, or tips (\$100,000 max per employee—gross earnings).
- **Interest on mortgages** (for loans incurred before February 15, 2020).
- **Rent** (under lease agreements pre-February 15, 2020)
- **Utilities** (if service began before February 15, 2020).

Covered Period

1. **Covered Period:** The clock starts when your lender makes your first PPP loan disbursement. From that date, you'll have eight weeks to make eligible payments. This is known as the "covered period."

2. **Alternative Covered Payroll Period:** SBA gives borrowers with a biweekly or more frequent payroll schedule the option to use the "Alternative Payroll Covered Period." This begins their eight-week period on the first day of their first pay period after receiving the first disbursement.

Examples of Covered Period

1. 8-Week Covered Period Example:

- Borrower receives PPP loan on Monday, April 20
- April 20 is the first day of the loan period
- Sunday, June 14 is the last day of the loan period

2. Alternative Payroll Covered Period Example:

- Borrower receives PPP loan on Monday, April 20
- Borrower's first day of its first pay period following disbursement is Sunday, April 26
- April 26 is the first day of the alternative payroll period
- Saturday, June 20 is the last day of the loan period

FTEE

The to achieve loan forgiveness borrowers must maintain their **full time equivalent employee** head count.

More on FTEs this later . . .

Key #3 – Know the Qualified “Payroll” Costs (75%)

Payroll costs paid or incurred by a business during the eight-week period for determining forgivable costs include:

- (1) **cash compensation** capped at \$15,385 per employee;
- (2) employer contributions for **retirement and healthcare**, which have no cap; and
- (3) **state and local taxes** assessed on employee compensation.

Payroll Costs – 2 Components

Cash compensation – includes gross salary, wages, gross tips, gross commissions, overtime, paid leave (excludes FFCRA leave), allowance for dismissal or separation and **bonuses**.

- The total for each individual employee may not exceed **\$15,385** for the covered period (\$100,000 pro-rated).
- Any amounts paid to owners (owner-employees, a self-employed individual, or general partners) are capped at \$15,385 or the 8-week equivalent of their applicable compensation in 2019, whichever is lower.

Payroll Costs – 2 Components

Other payroll costs: employer contributions for employee health insurance, including employer contributions to an employer-sponsored **group health plans, including dental & vision**; employer contributions to **employee retirement plans**; and employer **state and local payroll taxes**.

* Workers compensation and federal taxes are NOT included.

Compensation Capped at 100k

- **The \$100,000 limit (\$15,385 over 8 weeks) for employees does not include benefits.**
- Congress placed an income limit of \$100,000 per employee in order to limit the flow of funds to high-wealth workers, but that limit only refers to cash payments.
- Benefits to such employees are not counted into the calculations.

Key #4 – Understand Owner Restrictions

Limitation on Owner's Compensation: the lesser of \$15,385 or the 8-week equivalent of their 2019 compensation.

Non-Cash Compensation for Owners Excluded (except for W-2 owner-employee) – In addressing non-cash compensation, the forgiveness application indicates only employee related non-cash compensation paid by the employer is included. This effectively removes owner related health insurance, retirement benefits, and employer paid state and local unemployment compensation taxes from the definition of Payroll Costs.

*The updated guidance also clarified that self-employed individuals cannot claim the entire PPP loan as income replacement.

Key #5 – Know the Other Qualified Expenses (25%)

1. Mortgage interest
2. Rent payments
3. Utility payments

Rent Includes Leases of Personal and Real Property

The forgiveness application specifically states that rent includes the following: “Business rent or lease payments pursuant to lease agreements for real or personal property in force between February 15, 2020 (business rent or lease payments).”

It was clear that rental payments for office, storefront and other real property was going to be included, but the application now makes it clear that personal property items such as copiers, servers, autos and other common items of personal property that are leased by a business will be includable in the bucket of non-payroll costs that may be forgiven.

Mortgage Interest Includes Personal and Real Property

Similarly, a business “mortgage interest payment” includes loans for real property and personal property, and as a result interest paid on loans for equipment, autos and other personal property items are includable and can be forgiven.

Utility Payments

The following are all considered forgivable utilities expenses for the PPP:

- Electricity
- Water bill
- Gas
- Sewage
- Telephone (cell phone and landline)
- Internet bill
- Transportation costs

* Agreements for each utility must have been in place prior to February 15th, 2020. Any agreements that began after February 15 would not be eligible for forgiveness.

Key #6 – Keep Your Employee Headcount Up

- The purpose of the PPP loan is to keep employees on payroll (and off unemployment). So to get your loan forgiven, it's essential to keep your employee headcount at the same level as when you applied.
- When you applied for your PPP loan, you included all employees you employed—full-time and part-time workers—in the calculation. But for loan forgiveness, the CARES Act looks at your average full time equivalent **(FTE) employees** during the covered period.

Calculating FTE

You can use one of the following methods to calculate your FTE during the covered period:

- Enter the average number of hours each employee worked per week, divide by 40, and round to the nearest tenth (maximum 1.0).
- Assign a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours

The SBA will reduce PPP loan forgiveness based on your average FTE employee reduction. Here's the calculation to determine your PPP loan forgiveness reduction amount for FTEs:

Calculating FTE Reduction

The amount eligible for forgiveness will be reduced if the borrower decreases its full-time employee (“FTE”) headcount during the loan period.

➤ The reduction percentage is determined as follows:

1. Average number of FTEs during the covered period DIVIDED by

2. EITHER

- February 15, 2019 – June 30, 2019

or

- January 1, 2020 – February 29, 2020

** Seasonal businesses can also choose any consecutive 12-week period between May 1, 2019 and September 15, 2019

FTE Exceptions for FTE Reductions

In determining FTE headcount, there are **four exceptions** that let you claim an individual as a FTE even though they are no longer employed with the company on the date of your forgiveness application.

1. an employee that was **fired for cause**;
2. an employee who voluntarily **resigned**;
3. an employee who voluntarily **requested and received a reduction** of his or her hours; or
4. An employee declines a rehire offer.

In all of these cases, you're only allowed to claim this individual if the position was not filled by a new employee. Any FTE reductions in these four cases do not reduce the Borrower's loan forgiveness.

FTE Exceptions for FTE Reductions

- A laid-off or furloughed employee can decline an offer to be rehired under the PPP **without impacting a loan recipient.**
- An employee that declines to be rehired under the terms of the PPP will be excluded from loan forgiveness reduction calculations. An employer needs to keep a record of the refusal in writing though. Workers may be turning down such offers because they are earning more than their prior wages on the \$600 federally subsidized unemployment stimulus program.
- Employees turning down a rehire offer may be ineligible to continue receiving unemployment benefits, as employers are instructed to inform state unemployment offices of such offers.

FTE Safe Harbor

This means that, if you laid off or furloughed employees, you must bring them back on payroll so your headcount reflects what it did when you applied for the loan. Or, you can restore FTE employee levels through new hires.

If you decreased your FTE employee levels between February 15, 2020 – April 26, 2020, you can qualify for the FTE Reduction Safe Harbor (i.e., no FTE loan reduction) if you restore levels by June 30, 2020.

Key #7 – Keep Wage Cuts from Reducing Forgiveness

For the eight-week covered period, you need to pay your employees at least 75% of their average wage rate from Jan. 1 – Mar. 31.

Example: hourly wage reduced from \$30/hr to \$20/hr (a 67% reduction)
annual salary reduced from \$70,000 to \$50,000 (a 71% reduction)

This rule does not apply to owner-employees and self-employed, or employees who earned an annual salary of \$100,000 or more (\$8,333 per month/\$1,923 per week) in 2019.

Safe Harbor

In the event reductions were made between Feb. 15 – Apr. 26, you have until **June 30, 2020, to eliminate reductions in excess of 25%** of that they earned as of February 15, 2020.



Key #8 – Don't Forget the EIDL Grant

- The Economic Injury and Disaster Loan (EIDL), or 7(b) loan, is the SBA's other prime loan program to assisted affected small businesses. Both programs cannot be used for the same expenses though.
- **An EIDL grant must be subtracted from the forgivable portion of the PPP.**

PPP and the EIDL Emergency Grant

- \$90,000 PPP 8-week total of forgivable expenses
- \$10,000 EIDL Emergency Grant

\$90,000 PPP - \$10,000 EIDL grant =

\$80,000 eligible PPP forgiveness

(\$10,000 remains a 1% loan)

Key #9 – Document, document, document

- SBA can review PPP loans of any size at any time.
- Borrowers must **retain their PPP documents for at least six years** after the date the loan is forgiven or paid in full.

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

PPP Loan Forgiveness Calculation Form

PPP Schedule A

Payroll: 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)).

FTE: Documentation showing (at the election of 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.

Documents that Each Borrower Must Maintain but is Not Required to Submit

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, firings for cause, voluntary resignations, and written requests by any employee for reductions in work schedule.
- d. Documentation supporting the PPP Schedule A Worksheet “FTE Reduction Safe Harbor.”

All records relating to the Borrower’s PPP loan, including documentation submitted with its PPP loan application, documentation supporting the Borrower’s certifications as to the necessity of the loan request and its eligibility for a PPP loan, documentation necessary to support the Borrower’s loan forgiveness application, and 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.

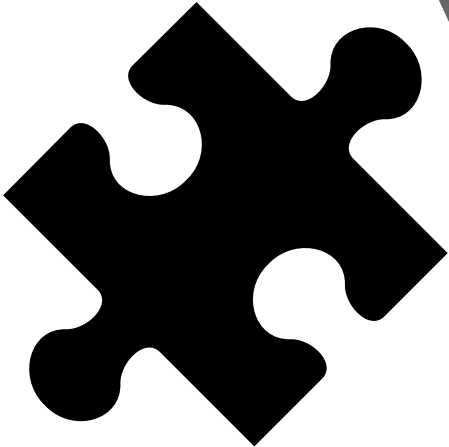
Key #10 – Prepare and Apply for Forgiveness (work with your lender!)

Remember the PPP was passed for the purpose of preserving people's pay during the primary period of this pandemic. That's the basic theme behind the forgiveness rules. There is also legislation pending to extend the duration of the forgiveness window and add even more clarity to the PPP program. (We'll update you if this passes.)

To maximize your potential loan forgiveness:

- Make sure you're not reducing headcount or wages.
- Then make adjustments (through rehiring or increasing pay) to avoid reduction penalties and demonstrate that you've dedicated at least 75% of your loan to paying your employees.
- Finally, ensure that what's left over is spent only on approved business expenses.

Additional Resources



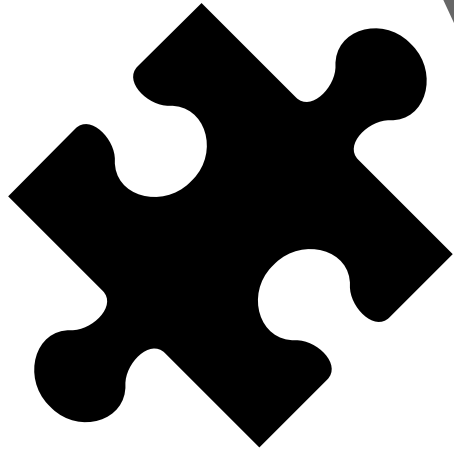
NFIB Resources

- [NFIB Tip Sheet for Calculating Loan Forgiveness](#)
- [NFIB Covid-19 Weekly Webinar Series](#)
- [NFIB Coronavirus Resources](#)
- [NFIB PPP Loan and EIDL Side-by-Side Comparison Chart](#)
- info@nfib.org
- www.nfib.com

Additional Resources

- [PPP Loan Forgiveness Application](#) (posted May 15, 2020)
- [American Institute of CPA's PPP Loan Forgiveness Calculator](#) (draft posted May 19, 2020)
- [U.S. Department of Labor Coronavirus Unemployment Information](#)

Q&A



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