

Advisors for **CHANGE**

Paycheck Protection Program Overview

As of April 15, 2020

The Paycheck Protection Program has a loan forgiveness provision as defined by section 1106 of the CARES Act, passed on March 27, 2020 with regulations being issued by the Small Business Administration (SBA).

The information in this overview have been gathered from available sources. We expect that there will be additional guidance issued by the SBA and we will update this information as new guidance becomes available.

We have prepared a loan forgiveness calculator which can be downloaded [here](#). More information about the PPP program and other federal updates can be found on [our website](#)

Loan Forgiveness

The burden is on the borrower to request loan forgiveness. **(CARES ACT Section 1106 (d))**
The request for loan forgiveness must be submitted to the bank at the end of the 8-week “coverage period.” The submission must include an accounting of all allowable expenditures supported with payroll records, canceled checks.

The 8-week coverage period begins on the first day that the lender makes the first disbursement to the borrower. **(CARES ACT Section 1106 (a))**

What will be required to request loan forgiveness

The borrower must submit to the lender the following: **(CARES ACT Section 1106 (e))**

(1) documentation verifying the number of full-time equivalent employees on payroll and pay rates for the periods described in subsection (d), including—

- (A) payroll tax filings reported to the Internal Revenue Service; and
- (B) State income, payroll, and unemployment insurance filings;

Note: during the 8 week coverage period, there may not be payroll tax filings and the proper documentation will be payroll registers and evidence of payroll tax deposits from a payroll processor.

(2) documentation, including canceled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments;

(3) a certification from a representative of the eligible recipient authorized to make such certifications that—

(A) the documentation presented is true and correct; and

(B) the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments; and

(4) any other documentation the Administrator determines necessary.

How is the loan forgiveness amount calculated?

An eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the 8 week “covered period”: **(CARES ACT Section 1106 (b))**

(1) Payroll costs as defined in the act which are:

- Wages with a cap of a rate of \$100,000 annual salary per employee
- State and Local employer taxes (typically unemployment insurance tax)
- Health Insurance (the portion funded by the employer)
- Retirement Expense (the portion funded by the employer)

(2) Any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation).

(3) Any payment on any covered rent obligation.

(4) Any covered utility payment with utilities defined as **(CARES ACT Section 1106 (a))**

- Electricity
- Gas
- Water
- Transportation
- Telephone
- internet access

In addition to spending the funds on allowable costs, the borrower must spend at least 75% of the borrowed funds on payroll (per SBA FAQs and interim rule)

What if I have payroll, rent, mortgage interest and utilities costs that are funded with federal grant funds?

We have not seen specific guidance on this issue from SBA or OMB. It is our current recommendation that you do not use PPP funds to replace existing grant-funded activities with PPP proceeds as this would cause you to supplant existing federal support with another federal source, which is generally now allowable. This may reduce the amount of the loan that is forgivable, you will be able to pay back any unspent portion with interest without a prepayment penalty.

We are actively perusing guidance on this issue and will let you know as soon as more information is available.

Are there other provisions for loan forgiveness?

Yes, the amount of loan forgiveness will be reduced if the borrower reduces headcount or reduces the wages of an individual employee by more than 25% from their rate at February 15, 2020.

There is a major exception to this loan forgiveness calculation and that is if you laid-off workers between February 15, and April 26, 2020 and you restore their jobs and wages (up to 75% of prior wage) loan forgiveness is restored.

How do I calculate my headcount if I didn't have a reduction in my staff size or wages?

The amount eligible for forgiveness is reduced by multiplying the forgiveness amount by the following calculation:(**CARES ACT Section 1106 (d)(2)**)

The quotient obtained by dividing:

The average number of full-time equivalent employees of the borrower during the 8-week period from the date the loan originated,

By Either:(at the borrower's choice)

The average number of full-time employees per month from February 15, 2019 through June 30, 2019, **OR**

The average number of full-time employees per month from January 1, 2020 through February 29, 2020

Note that: Full-time employees are determined by calculating the average number of full-time equivalents for each pay period falling within the month

The legislation describes the formula incorrectly and we expect that this will be clarified in further guidelines. The intention is that if your current headcount is 90% of your headcount in the base period, then your loan forgiveness will be 90% of the eligible amount. (The way the formula is described your loan forgiveness would be 10% in this scenario, which is obviously incorrect.)

The AICPA has offered this example of this calculation:

- If X Co. had an average of 20 employees from April 1- May 31, 2020 and 20 employees from February 15 – June 30, 2019, it has terminated NO employees. Yet, the formula would have you reduce the forgiveness amount by 20/20, or 100%.
- Or, if you dropped from 50 employees to 30, it would have you reduce forgiveness by 60%, even though X Co. only cut 20% of its staff. But...if X Co. cut 40 out of 50 employees, the ratio would be 10/50, and the reduction would be only 20%, even though X Co. cut 80% of its staff.
- Obviously, the proper formula is for the quotient to be subtracted from 1. So if you started with 50 employees and cut 10, you would divide 40 by 50, get 80%, and then subtract that from 1 to arrive at 20%. This 20% would then be multiplied by the forgiveness amount.

What if my full loan amount is not forgiven?

You can pay back any unspent portion, with interest at a rate of 1%, at any time without a prepayment penalty. Or you can continue to use proceeds to pay for eligible costs after the 8-week coverage period and repay the unforgiven portion with interest in monthly installments beginning 6 months after the loan was issued until 2 years after loan origination.