

Small Business Administration Paycheck Protection Program (SBA PPP) Loans

Next Steps: The Basics of Loan Forgiveness

May 22, 2020



Disclaimer

- ❑ The information presented summarizes general guidance under the CARES Act, including Guidance from the Small Business Administration and other sources, based on the existing information available at this time.
- ❑ It is intended only to provide a quick reference and not as a substitute for the law, regulations or official commentary.
- ❑ There are continuing, ongoing developments in this area. Therefore, always consult official sources of information, including regulations text and official commentary, for a complete understanding of the law, including regulations.

Congratulations! You Got a PPP Loan! Now What??

Now that you have received a PPP Loan, Village Bank wants to let you know what to expect over the course of the loan, with particular emphasis on the next 6 months.

First, a quick review of the core features of the SBA Paycheck Protection Program:

The Basics

The intent of the PPP is to mitigate the economic impact of the COVID-19 virus by providing an 8-week compensation “bridge” to allow companies to retain or rehire employees who were either laid-off or furloughed due to the pandemic. Banks, backed by a 100% guarantee by the SBA, are lending money to small businesses per SBA guidelines. Small businesses are, in turn, to use the money to pay employees and certain other business expenses.

- The PPP has two notable features for borrowers:
 - Potential forgiveness of portions of the PPP loan that meet certain criteria and are supported by documentation
 - No payments for 6 months
- The portion of a PPP loan that is not forgiven is to be repaid over the 18 months following an initial 6-month suspension of payments
- While no payments are due for 6 months after a loan has closed/funded, interest continues to accrue at the contractual rate of 1%

The PPP Program, including those elements pertaining to loan forgiveness, continues to evolve; borrowers should review current information prior to submitting an application for forgiveness to ensure conformance with program requirements!



Focus: How Do You Qualify for Forgiveness?

A key feature of the PPP is the potential forgiveness of up to 100% of the loan amount if certain conditions* are met.

Payroll Expenses

What Can Be Included

Employer paid salaries, tips, and commissions, state/ local payroll taxes (i.e., unemployment tax), health insurance premiums, retirement plan contributions

Note: For sole proprietors with no employees, the concept of “owner replacement compensation” applies (8/52 of 2019 Form 1040 Schedule C Line 31, Net Profit, but subject to the \$100,000 annualized compensation restriction noted below)

Time Period

The Borrower may elect one of the following 8-week periods to determine payroll costs paid or incurred:

- **Covered Period**: 56 calendar days beginning on the day loan funds are disbursed by the Bank
- **OR**
- **Alternative Payroll Covered Period**: 56 calendar days that begins on the first day of the first pay period after loan funds are disbursed by the Bank

Potential Reductions in Amount Forgiven

The amount of loan forgiveness will be reduced by :

- Annualized employee earnings exceeding \$100,000
- Failure to maintain pre-pandemic Full Time Equivalent (FTE) employment levels by June 30, 2020 (subject to the safe harbor provision)
- Failure to pay employees at least 75% of what they were earning prior to the pandemic by June 30, 2020

Non-Payroll Expenses

What Can Be Included

- Interest (not principal) on mortgage [loan] obligations on real estate that were in effect on February 15, 2020.
- Business rent or lease payments for real estate that were in effect as of February 15, 2020
- Utility expenses (electricity, gas, water, transportation, telephone or internet access) for which service began before February 15, 2020

Time Period

Non-payroll expenses must be paid or incurred during the ***Covered Period*** (56 calendar days beginning on the day loan funds are disbursed by the Bank)

NOTE: Only 25% of the total amount to be forgiven may be comprised of non-payroll expenses

*See the SBA ***Paycheck Protection Program Loan Forgiveness Application*** for important details (available at www.sba.gov)

What Documentation Do I Need to Submit for Forgiveness?

In addition to the application for forgiveness, the borrower must submit the following information to the Bank as required by the SBA:

SBA Required Documentation

(Must be received by the Bank for an application for forgiveness to be processed)

1. **Payroll Documentation:**
 - a) **Bank account statements or third-party payroll service provider reports** documenting the amount of cash compensation paid to employees (for sole proprietors with no employees, it is recommended that evidence of transfers of cash from a business account to the owner's personal account be maintained)
 - 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:
 - 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.
 - 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
2. **Full Time Equivalent (FTE) Documentation:** (payroll tax filings, i.e, IRS Form 941, and state quarterly business/individual employee wage and unemployment insurance tax filings) showing, at Borrower's election:
 - 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 between either of the aforementioned periods or any consecutive twelve-week period between May 1, 2019 and September 15, 2019.
3. **Non-Payroll 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.
4. **Economic Injury Disaster Loan Documentation**, if applicable, including the amount of Any EIDL Advance

What Other Things Do I Need to Know About Forgiveness?

- Maintain appropriate documentation as required by the SBA. Your application for forgiveness cannot be processed without it-- Start NOW!
- An Economic Injury Disaster Loan (EIDL) related to the pandemic will impact the amount of loan forgiveness; the amount of the EIDL Advance (up to \$10,000) will be deducted from the PPP forgiveness amount.
- Borrowers will be required to attest to the appropriate use of PPP loan proceeds and the accuracy of the information provided, as well as acknowledge the consequences of providing inaccurate/false information and the right of the SBA to request additional information and adjust the amount of forgiveness.
- Processing applications for forgiveness will take time. Once an application for forgiveness is submitted with appropriate supporting documentation, banks have 60 days to review the application and submit it to the SBA. The SBA then has 90 days to review and approve the application.
- Stay abreast of evolving Program guidance and requirements. When the Application for Forgiveness was released on May 18, 2020, the SBA and Department of Treasury indicated that they will soon issue regulations and guidance to further assist borrowers as they complete their applications, and provide lenders with guidance on their responsibilities.
- Be on the look-out for additional information from Village Bank. Additional information regarding forgiveness processes will be forthcoming in the near future.

Forgiveness Application Checklist

Required Documentation to be submitted

Payroll Documentation: *Reference Page 5, Item 1*

- Bank account statements or third-party payroll service provider reports**
- Tax forms (or equivalent third-party payroll service provider reports)**
 - Payroll tax filings reported (typically, Form 941)
 - State quarterly business and individual employee wage reporting
 - Unemployment insurance tax filings
- Payment receipts, cancelled checks, or account statements** documenting EMPLOYER contributions to health insurance and retirement plans

Full Time Equivalent (FTE) Documentation: *Reference Page 5, Item 2*

- Payroll tax filings, (i.e., IRS Form 941)**
- State quarterly business/individual employee wage and unemployment insurance tax filings**

Forgiveness Application Checklist

Required Documentation to be submitted (*continued*)

Non-Payroll Documentation: *Reference Page 5, Item 3*

- Business Mortgage Interest Payments:** Copy of lender amortization schedule and receipts or cancelled checks
- Business Rent or Lease Payments:** Copy of current lease agreement and receipts or cancelled checks, or lessor account statements
- Business Utility Payments:** Copy of invoices, receipts, cancelled checks, or account statements

Economic Injury Disaster Loan Documentation: (if applicable) *Reference Page 5, Item 4*

Forgiveness Application Checklist

Documentation Required to be Maintained but Not Submitted

- PPP Schedule A Worksheet or its equivalent and the following:
 - Documentation for each individual employee in PPP Schedule-A Worksheet Tables 1&2
 - Documentation regarding any job offers and refusals, firings for cause, voluntary resignations, and written request by any employee for reductions in work schedule
- Documentation supporting the PPP Schedule-A Worksheet “FTE Reduction Safe Harbor.”
- All records relating to the Borrower’s PPP loan
- The Borrower must retain all such documentation in its files for six (6) years