

UPDATED PPP LOAN FORGIVENESS APPLICATION AND INSTRUCTIONS

Presented by:

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LEGISLATIVE HISTORY

1. Coronavirus Preparedness and Response Supplemental Appropriations Act
 - Signed into law on March 6
 - \$8.3B in emergency funding, \$20M in small business loans
2. Families First Coronavirus Response Act (FFCRA)
 - Signed into law on March 18, effective April 1, 2020
 - Emergency Paid Sick Leave and FMLA
 - Applies to companies with less than 500 employees
 - Requires employee notice / poster
3. Coronavirus Aid, Relief and Economic Security Act (CARES Act)
 - Signed into law on March 27
 - First round of Paycheck Protection Program (PPP) loans (\$349B)
4. Paycheck Protection Program and Health Care Enhancement Act
 - Signed into law on April 24
 - Second round of PPP loans (\$310B)
5. Paycheck Protection Program (PPP) Flexibility Act of 2020
 - Signed into law on June 5
 - Provides borrowers with greater flexibility (e.g., 8 or 24 week covered period)

PPP FLEXIBILITY ACT (PPPFA)

Covered Period

- Current borrowers: Can select 8 or 24 weeks
- New borrowers (on/after June 5): 24 weeks (may not extend past December 31, 2020)

Safe Harbors (FTE and Pay)

- Old: June 30, 2020; New: December 31, 2020

New FTE Exceptions

- Inability to rehire someone employed on or before February 15, 2020; and
 - Inability to hire a similarly qualified employee on or before December 31, 2020; or
- Inability to return to the same level of business activity compared to February 15, 2020 or prior

Minimum Payroll Costs

- Old: 75% of forgiveness amount; New: 60% of forgiveness amount (not a “cliff”)

Loan Payments

- Old: 6 months to begin payments; New: Deferred until SBA determines forgiveness
 - Borrowers have 10 months from the last day of the covered period to submit forgiveness applications
- Old: 2 years for maturity; New: 5 years (existing loans may require borrower and lender to agree)

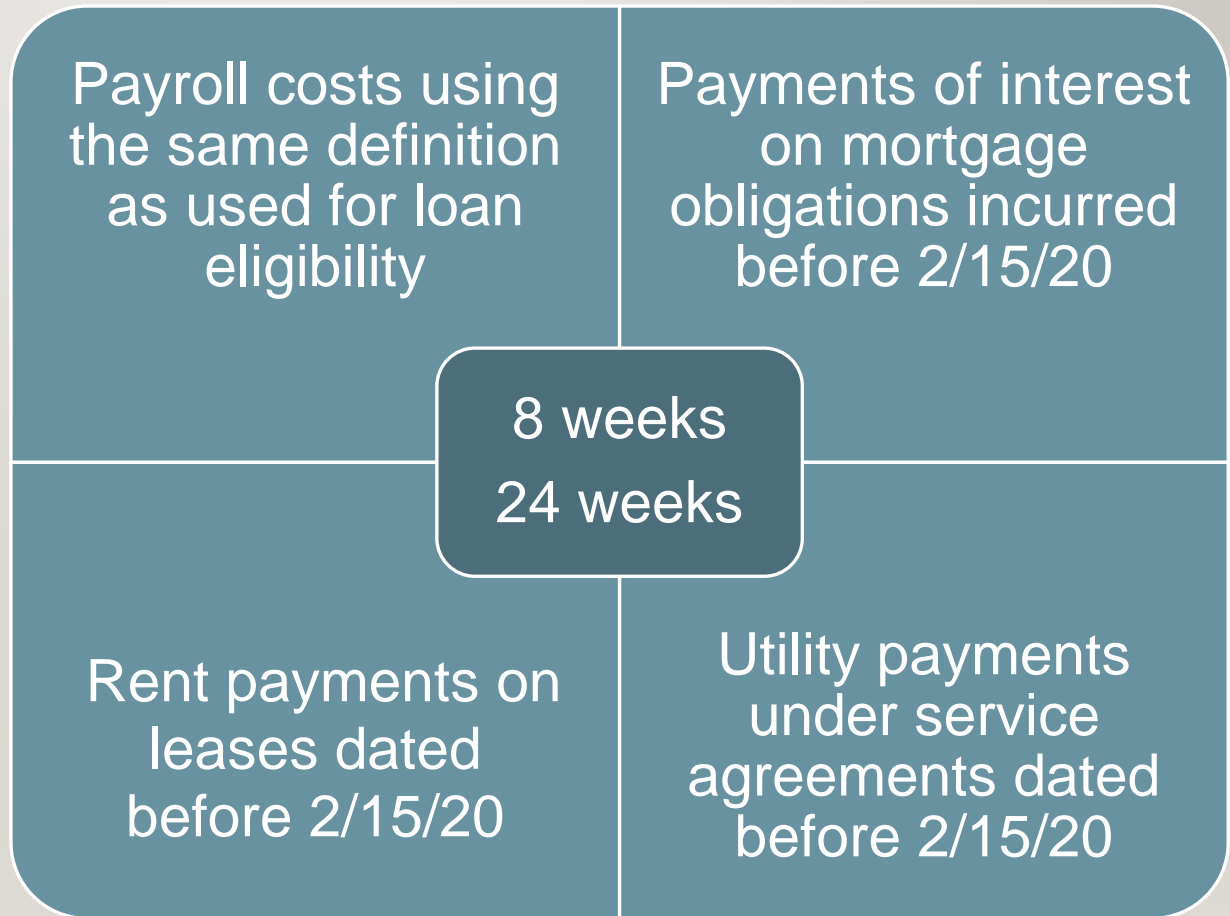
Payroll Tax Deferrals

- Borrowers with forgiveness can delay payroll taxes (Social Security) – 50% due 2021, 50% due 2022

PPP LOAN FORGIVENESS

A borrower is eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week or 24-week covered period or alternative covered period:

NOTE: Not more than 40% of the forgiven amount may be for non-payroll costs.



COVERED PERIOD OPTIONS

Covered Period

- 8-week (56 day) or 24-week (168-day) period starting on the same day as the PPP loan proceeds were received
- This is the only option for companies with semi-monthly or less frequent payroll periods

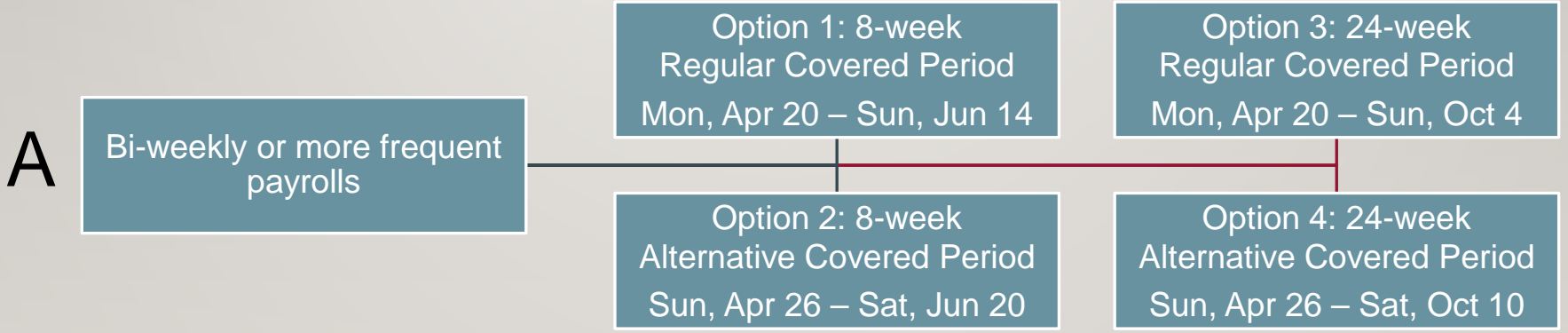
Alternative Covered Period

- 8-week (56 day) or 24-week (168-day) period starting on the first day of their first pay period following PPP disbursement date
- This is an additional option for companies with bi-weekly or more frequent payroll periods

COVERED PERIOD EXAMPLES

Scenario: ABC Company received the PPP funds on Monday, April 20.

- A. What if they have a weekly payroll with a pay period from Sunday through Saturday?
- B. What if they have a semi-monthly payroll?



ADVANTAGES OF 8 VS 24 WEEKS

8-week Covered Period

- Loan forgiven faster
- Easier to be fully staffed for 8 weeks compared to 24 weeks
- Can use current rules
- Other loans or lines of credit may be affected by forgiveness uncertainty

24-week Covered Period

- More time to use funds
- More time to get FTE headcount back to pre-crisis level
- More time to plan

PPP LOANS – PAYROLL COSTS

Included Payroll Costs

- Salary, wage, commission, or similar compensation
- Payment of cash tips or equivalent
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment for group health insurance & retirement benefits
- Payment of state or local tax assessed on employee compensation

Excluded Payroll Costs

- Compensation of an individual over \$100K (health & retirement excluded)
 - Non-owners: \$15,385 max for 8 weeks; or \$46,154 max for 24-week covered period
 - Owners:
 - Lesser of \$15,385 or 8-week equivalent of 2019 pay for 8-wk covered period; or
 - Lesser of \$20,833 or 2.5-month equivalent of 2019 pay for 24-wk covered period
- Employer portion of payroll taxes
- Compensation of an employee whose residence is out the United States
- Qualified FFCRA sick leave or FMLA wages

OWNER FORGIVENESS

	Sole Proprietor with Employees	Partners in Partnerships	S Corporations	C Corporations
Health Plan Expenses for Owners	Should not be included	Should not be included	Allowed up to PPP salary cap if recorded as part of W2 wages	Can be included up to 2.5 months' worth of 2019 amount
Retirement Plan Expenses for Owners	Should not be included	Should not be included	Can be included up to 2.5 months' worth of 2019 amount	Can be included up to 2.5 months' worth of 2019 amount
State & Local Taxes for Owners	Should not be included	Should not be included	Can be included	Can be included
FT / FTE Status of Owners	Should not be included	Should not be included	Should not be included	Should not be included

SALARY / HOURLY WAGE REDUCTION

Salaried Employees

Salary reduced > 25%

- Compare the person's:
 - Average annual salary during the covered period
 - Average annual salary between January 1, 2020 and March 31, 2020

Hourly Employees

Pay rate reduced > 25%

- Compare the person's:
 - Average hourly wage (pay rate) during the covered period
 - Average hourly wage (pay rate) between January 1, 2020 and March 31, 2020
 - Actual hours worked does not affect this reduction

FTE FORGIVENESS REDUCTIONS

Reference Period Options

Covered
Period
(8 or 24
weeks)

Option 1: 02/15/19 – 06/30/19

Option 2: 01/01/20 – 02/29/20

Option 3 (seasonal): 12-week period
between 05/01/19 – 09/15/19

FTE FORGIVENESS REDUCTIONS

Empl Name	Hours Worked per Week								Weekly Avg
	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	
Jane	40	51	38	39	41	35	40	52	42.0
John	12	10	10	8	12	13	18	15	12.3

Employee Name	Average Hours Worked per Week	Calculation Option 1 (Rounded and capped at 1.0)	Calculation Option 2 Simplified (1.0 or 0.5)
Jane	42.0	1.0 (42.0/40.0)	1.0
John	12.3	0.3 (12.3/40.0)	0.5
Total FTE Count		1.3	1.5

SAFE HARBORS AND EXCEPTIONS

Salary / Wage Reduction Safe Harbor

- ✓ Individual employee's annual salary or hourly wage went down from February 15, 2020 through April 26, 2020; and
- ✓ Individual employee's salary/wage, as of (the earlier of) December 31, 2020 or the date of forgiveness application, is greater than or equal to the salary/wage as of February 15, 2020

FTE Reduction Safe Harbor

- ✓ Borrower is able to document that it was unable to operate between February 15, 2020 and the end of the covered period at the same level of business activity as before February 15th; or
- ✓ Borrower reduced its FTE level between February 15th – April 26th; and
- ✓ Borrower restored its FTE level (to Feb 15th level) by not later than December 31, 2020

FTE Reduction Exception (Events during the covered period)

- ✓ Written job offer to re-hire or restore hours and employee rejected
- ✓ Employee was fired for cause
- ✓ Employee voluntarily resigned
- ✓ Employee voluntarily requested and received a reduction of hours
- ✓ Exceptions are only allowed if the position was not filled by a new employee
- ✓ New PPPFA exceptions

FTE SAFE HARBORS EXAMPLE

Instructions Document:

- The Borrower is exempt from the reduction in loan forgiveness based on a reduction in FTE employees described above if both of the following conditions are met: (a) the Borrower reduced its FTE employee levels in the period beginning February 15, 2020, and ending April 26, 2020; and (b) the Borrower then restored its FTE employee levels by not later than December 31, 2020 to its FTE employee levels in the Borrower's pay period that included February 15, 2020.

Application Document:

- Enter the borrower's total FTE as of the earlier of December 31, 2020, and the date this application is submitted

Example: Borrower had 10 FTEs from Jan 1 thru Apr 14 and then reduced staff down to 8 FTEs on Apr 15 (week 1)

Week #	# of Employees
1	8 FTEs
2	8 FTEs
3	10 FTEs
4	8 FTEs
5	8 FTEs
6	8 FTEs
7	7 FTEs
8	6 FTEs
9	8 FTEs
10	8 FTEs
11	10 FTEs

IS THIS FORGIVABLE?

Topic	Forgivable?
1) PPP funds received April 15. Pay period was April 5 thru April 11. Pay date was April 17	Yes
2) Rent invoice from March 2020 was outstanding and then paid within 8 or 24-week period	Yes
3) Employer paid medical, dental and vision premiums	Yes
4) Employer paid life, accident, disability premiums	No
5) Owner compensation through W-2 payroll or Schedule K-1 payments	Yes
6) Owner draws that are not subject to self-employment tax	No
7) Employee bonus (e.g., retention bonus)	Yes
8) Vacation pay representing paid time off	Yes
9) Employee average hours worked above 40 per week included in FTE calculations	No
10) Owners' hours worked included in FTE calculations	No

FORGIVENESS APPLICATIONS

Form 3508 (06/20)

- 5 pages
- Separate 7-page instructions
- Can be used by all borrowers

Form 3508 EZ (06/20)

- 3 pages
- Separate 4-page instructions
- Can be used by:
 - Self-employed with no employees; or
 - Did not reduce employee pay by more than 25%; and did not reduce number or hours of employees; or
 - Did not reduce employee pay by more than 25%; and experienced reductions in business activity as a result of health directives related to COVID-19

ABILITY TO APPLY EARLY

Applying before the end of the covered period

Borrowers can apply after they have exhausted the funds

Applicable to 8 and 24 week covered periods

If an employee's pay is reduced > 25%, the borrower must account for the pay reduction over the full 8 or 24 weeks

Example: A borrower is using a 24-week covered period. This borrower reduced a full-time employee's weekly salary from \$1,000 per week during the reference period to \$700 per week during the covered period. The employee continued to work on a full-time basis during the covered period, with an FTE of 1.0. In this case, the first \$250 (25 percent of \$1,000) is exempted from the loan forgiveness reduction. The borrower seeking forgiveness would list \$1,200 as the salary/hourly wage reduction for that employee (the extra \$50 weekly reduction multiplied by 24 weeks). If the borrower applies for forgiveness before the end of the covered period, it must account for the salary reduction for the full 24-week covered period (totaling \$1,200).

TIPS TO MAXIMIZE FORGIVENESS



Adjust your payroll schedule (temporarily) to fit within the 8 or 24-week window



Don't forget to include employer-paid benefit amounts in the payroll costs, including group medical, dental, vision, FSA and 401(k) plans



Keep track of hours worked for each employee – the forgiveness is based on FT and FTE counts (based on a 40 hour work week)



Pay a bonus or increase compensation for employees if you're tracking too low near the end of the 8 or 24 weeks

QUESTIONS?

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