



Paycheck Protection Program

ACUIA Regions 4 & 6 Fall Meeting

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Your presenters



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- **More guidance may be forthcoming from the SBA. This is what we interpret through today.**

Agenda

- Current state of the PPP
- Basic review of the forgiveness guidance
- Loan application
- Strategies and best practices
- Questions and answers with our panel of experts

Current State of the PPP

- The program is closed pending further legislation. Below are the statistics of what has been issued.

Summary of PPP Approved Lending

Loan Count	Net Dollars	Lender Count
5,212,128	\$525,012,201,124	5,460

Lender Size	Lender Count	Loan Count	Net Dollars	% of Amount
>\$50 B in Assets	34	1,696,961	\$190,260,579,519	36%
\$10 B to \$50 B in Assets	88	769,963	\$100,975,416,018	19%
<\$10 B in Assets	5,338	2,745,204	\$233,776,205,586	45%

The Paycheck Protection Program (PPP) closed to new loan applications at 11:59pm on August 8, 2020.

Loan Size

Loan Size	Loan Count	Net Dollars	% of Count	% of Amount
\$50K and Under	3,574,110	\$62,742,565,653	68.6%	12.0%
>\$50K - \$100K	683,785	\$48,676,961,052	13.1%	9.3%
>\$100K - \$150K	294,557	\$36,058,010,813	5.7%	6.9%
>\$150K - \$350K	377,797	\$84,782,932,509	7.2%	16.1%
>\$350K - \$1M	199,679	\$113,558,427,234	3.8%	21.6%
>\$1M - \$2M	53,218	\$73,887,171,387	1.0%	14.1%
>\$2M - \$5M	24,248	\$72,184,996,045	0.5%	13.7%
>\$5M	4,734	\$33,121,136,431	0.1%	6.3%

*** Overall average loan size is: \$101K.**

- <https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>

PPP Loan Forgiveness General Rules

- The amount of loan forgiveness can be up to the full principal amount of the loan, and any accrued interest is paid by the SBA if the borrower spends the funds during the covered period on the allowable uses
- To the extent the loan is not fully forgiven, the balance is payable over a five-year period with interest at 1%
- Up to 10 months of deferral; Section 3(c) of the Flexibility Act provides that if the borrower does not apply for forgiveness of a loan within 10 months after the last day of the covered period, the PPP loan is no longer deferred, and the borrower must begin paying principal and interest

PPP Loan Forgiveness General Rules

■ Payroll:

- ▶ Payroll costs must account for at least 60% of the total PPP forgiveness amount, or the amount of forgiveness will be reduced
- ▶ Salary/wage reduction can be no more than 25% during the covered period or the amount of forgiveness will be reduced (certain exemptions/safe harbors may apply)
- ▶ Borrower must maintain the average number of full-time equivalent (FTE) employees during the covered period or the amount of forgiveness will be reduced (certain exemptions/safe harbors may apply)
- ▶ Incurred or paid during the covered period or alternative payroll covered period:
 - Includes costs incurred before the covered period or alternative payroll covered period but paid during the covered period or alternative payroll covered period.
 - Includes costs incurred during the covered period or alternative payroll covered period but paid on or before the next regular payroll date after the covered period or alternative payroll covered period.

PPP Loan Forgiveness General Rules

- Business rents, mortgage interest payments, and utility payments:
 - ▶ Lease, mortgage, or service contract effective prior to February 15, 2020
 - ▶ An eligible nonpayroll cost must be paid during the covered period or incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period

PPP Loan Forgiveness General Rules

- Recently issued guidance, Treasury IFR issued August 24, 2020:
 - ▶ Increased exemption from owner-employee compensation limits to those with <5% ownership in a C or S corporation (not partnerships)
 - ▶ Clarification that primary tenant rent expense submitted as forgivable cost must be netted with subtenant rent income
 - ▶ Clarification that otherwise eligible mortgage interest on property must be prorated on an FMV basis for the percentage of use by the borrower

PPP Loan Forgiveness General Rules

- Recently issued guidance, Treasury IFR issued August 24, 2020:
 - ▶ Home office expenses submitted as a forgivable nonpayroll cost must be based on 2019 tax filing
 - ▶ Related-party rents are eligible nonpayroll costs, BUT only to the extent they don't exceed mortgage interest owed on the property during the covered period attributable to the space being rented by the borrower under a pre-February 12, 2020, mortgage, the documentation for which must be provided to the lender; this would seem to say that debt-free related-party properties, AND
 - ▶ Otherwise eligible mortgage interest paid to a related party are not eligible nonpayroll costs

How to Request Loan Forgiveness

A borrower may submit a loan forgiveness application to the lender any time after the proceeds of the loan are spent, including before the end of the covered period.

Borrower deferral of principal and interest payments on the PPP loan ends **10 months** following the ending of their covered period.



The lender reviews the borrower application. The lender must request payment from the SBA at the time the lender issues its decision to the SBA.

The lender has **60 days** to perform the loan application review.



The 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.

The SBA has **90 days** to perform the loan application review.

Loan Forgiveness Application: Required documentation

- Signed forgiveness application form (SBA Form 3508, 3508-EZ, or lender equivalent)
 - ▶ Payroll: Documentation of payments made, payroll tax forms, documentation of noncash payments
 - ▶ Nonpayroll: Documentation of payments made
 - ▶ 3508 specific information: PPP Schedule A and FTE documentation
 - ▶ 3508-EZ specific information: FTE information (if applicable)
 - ▶ *See SBA Form 3508 or 3508-EZ instructions for specific details*

Borrower Requirements for Documentation for Retention

- Borrower must retain all documentation for six years
- Table 1 detailed support
- Table 2 detailed support
- Support for FTEs
- FTE reduction safe harbor 2
- PPP loan application
- Loan forgiveness application
- *See SBA Form 3508 or 3508-EZ instructions for specific details.*

Lender Responsibilities

- Providing an accurate calculation of the loan forgiveness amount is the borrower's responsibility; the lenders are expected to perform a good-faith review, in reasonable time, of the borrower's calculations and supporting documents concerning the amounts eligible for forgiveness
- Confirm receipt of the borrower certifications contained on the SBA Form 3508 or lender's equivalent form
- Confirm receipt of the documentation the borrower must remit to aid in the verification of allowable uses
- Confirm the borrower's calculations
- Carefully review processes and lending decisions for UDAAP and fair lending
- Follow all institutional BSA protocols
- Be cognizant of potentially fraudulent activities

See <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses> for more details on lender responsibilities

The Forgiveness Process: SBA Forgiveness Platform

- Account creation:
 - ▶ A “welcome to forgiveness” email will be received, with instructions on setting up the portal and login
 - ▶ Can select up to 10 members at their institution to receive access to the Forgiveness Platform
- Lender submission:
 - ▶ Lenders submit forgiveness decisions through the Forgiveness Platform
 - ▶ Upload supporting documents and any ACH instructions
- ▶ Managing the loan process:
 - ▶ Lenders can monitor their submissions, respond to inquiries, and monitor payment status in the portal
 - ▶ SBA decisions will be remitted through the portal
- ▶ Forgiveness Platform website: [Forgiveness.SBA.Gov](https://www.forgiveness.sba.gov)

Strategies and Best Practices

- Set up a procedure that considers the financial institution's internal risk management practices
- Document and date and time stamp applications
 - ▶ Consider referencing FAQs issued at time of approval
- Use checklists to ensure proper documentation
- Consider performing a quality control review
- Consider the use of calculators and expense tracking tools to assist clients with calculations
- Lenders may consider developing electronic portals
- Lenders may use Loan Service Providers (LSPs)
- Lenders should initiate the start of the debt forgiveness application period with their borrowers

Strategies and Best Practices, continued

- Consider opportunities to bolster financial institution's reputation
- Outsource the process or staff augmentation; lenders may consider engaging with an accounting firm for the review process
- Recommend that lenders have their borrowers prepare a mock application NOW based on the calculations in the application and projections through the end of the covered period/alternative payroll covered period
- Analyze and review information to ensure the borrower is qualifying for maximum forgiveness; see what adjustments you can make now through the end of the period so more will be eligible for forgiveness
- Documentation and quality control are crucial; also, keep a close eye on the October 31 deadline

Program Oversight

- The Office of Inspector General (OIG), in conjunction with the SBA and the Treasury, will be playing an active role in reviewing these applications for debt forgiveness
- In addition, the following agencies will be provided oversight and review of the OIG, SBA, and Treasury:
 - ▶ Government Accountability Office (GAO)
 - ▶ Department of Justice (already several prosecutions for fraud)
 - ▶ Congress
 - Congressional subpoena actions
 - House oversight subcommittee

Questions and Answers