

SBA Unveils PPP Loan Forgiveness Application

The U.S. Department of Treasury (Treasury) and the Small Business Administration (SBA) recently released the [Paycheck Protection Program \(PPP\) Loan Forgiveness Application](#) (Application) and instructions (Instructions) for small businesses to use when applying for PPP loan forgiveness with their lender. The release of this Application has been much-anticipated by U.S. small businesses that were able to secure financial relief through the PPP, as many were wondering about next steps with regard to PPP loan forgiveness.

This article provides a general overview of the Application and information about loan forgiveness eligibility under the PPP. For more information about your organization's loan, please contact your lender.

OVERVIEW OF THE APPLICATION

The Application is an 11-page document that consists of four parts:

1. PPP Loan Forgiveness Calculation Form
2. PPP Schedule A
3. PPP Schedule A Worksheet
4. Optional Demographic Form

Employers must submit the first two items to the same lender they applied for and received the PPP loan from. In addition to helping employers calculate the amount of PPP forgiveness they are eligible to receive, the Application also clarifies definitions, guidance and documentation requirements for applying for loan forgiveness.

The Application and accompanying Instructions clarify administrative questions surrounding PPP loans but do not provide guidance on how quickly forgiveness will work and whether bonuses are includable under compensation. Look for the SBA and Treasury to issue regulations and guidance related to these issues in the near future.

CLARIFIED GUIDANCE PROVIDED BY THE APPLICATION AND INSTRUCTIONS

As previously mentioned, the Application and Instructions provide clarification for certain definitions and guidance for administrative queries.

- **Covered payroll period vs. alternative payroll covered period**—Previous guidance for PPP loans stated that the eight-week period during which eligible expenses are forgivable begins the date the borrower receives disbursed PPP loan funds. The Application and Instructions state that borrowers who have biweekly or more frequent payroll schedules may utilize an alternative eight-week period to calculate payroll costs. For purposes of this alternative payroll covered period, the eight-week period should begin on the first day of the first pay period following PPP loan disbursement.
- **Covered payroll and nonpayroll costs**—The Application and Instructions provide

Provided by Wallace Welch & Willingham

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further guidance on both covered payroll and nonpayroll costs as they relate to loan forgiveness eligibility.

- **Payroll costs**—The Coronavirus Aid, Relief and Economic Security (CARES) Act requires that eligible covered payroll costs be incurred and paid within the covered eight-week period. According to the Instructions, costs are incurred on the day the employee’s pay is earned (i.e., works their hours) and are paid on the day the employer distributes a paycheck or facilitates an ACH transaction. Further, the Instructions explain that incurred payroll costs that are not paid on the last day of the covered period are eligible for forgiveness so long as they are paid on or before the next payroll date. Noncash payroll costs (e.g., employee health insurance and employer state and local taxes on employee compensation) may be included, provided that such costs satisfy the same incurred and paid requirements within the covered period.
- **Nonpayroll costs**—The Application and Instructions provide clarification on inclusion of certain nonpayroll costs that were incurred or in place prior to Feb. 15, 2020. These costs must be paid during the covered period, incurred and paid during the covered period or paid on or before the next regular billing date, and are limited to 25% of the total PPP loan forgiveness amount. Specifically, the following nonpayroll cost definitions are further explained:
 - **Rent**—While it was widely understood that PPP funds could be used to cover rental or mortgage payments for office, storefront and other real property, it was not previously made clear whether lease of personal property or interest payments (e.g., mortgage interest or interest on real or personal property) could be included in rent and eligible for forgiveness. According to the Instructions, personal property items (e.g., copiers or company vehicles) and interest paid on loans for real or personal property “in force between Feb. 15, 2020,” and through the covered period are includable under nonpayroll costs that may be forgiven.
 - **Utilities**—The Instructions clarify that utility expenses are includable under nonpayroll costs for forgiveness. Specifically, “electricity, gas, water, transportation, telephone or internet access, for which service began before Feb. 15, 2020,” may be included under nonpayroll costs for forgiveness.
- **Full-time equivalent employee (FTE) calculation**—Prior to the issuance of the Application and Instructions, it was not clear how employers should calculate FTEs under the PPP. According to the Instructions, employers can assign an FTE value to each employee, which can be calculated by dividing the average number of hours an employee is paid per week by 40. The calculated amount can be rounded to the nearest tenth but cannot exceed 1.0.
- **Reduced loan forgiveness calculation**—Prior to the issuance of the Application and Instructions, it was largely unknown whether and by how much loan forgiveness would be reduced if an employer failed to restore their head count or payroll costs to pre-coronavirus amounts. The Application includes a calculation that will help employers determine how much loan forgiveness they are eligible to receive.

In addition to the above guidance, the Instructions provide compensation for limitations on cash compensation per employee and explain that employers must certify and verify the PPP payments on the Application have been appropriately used. Moreover, the Instructions explain that borrowers that knowingly use payments for unauthorized purposes and request forgiveness are subjected to both civil and criminal fraud charges.

APPLYING FOR LOAN FORGIVENESS

The CARES Act requires employers to apply for loan forgiveness with the same lender from whom they applied for and received the PPP loan. When applying for loan forgiveness, employers will need to submit the following items to their lender:

- Completed PPP Loan Forgiveness Calculation Form
- Completed PPP Schedule A
- Proper payroll documentation, which includes:
 - Bank statements or third-party payroll service reports that document payroll
 - Tax forms or third-party payroll service reports (e.g., payroll tax filings reported or that will be reported on IRS Form 941, state business and individual wage reporting, and state unemployment tax filings)
 - Receipts, canceled checks or statements documenting noncash payroll costs (e.g., employee health insurance or employer contributions to employee retirement accounts)
- Head count and determination of FTEs and proper documentation (which must match period employer uses for PPP Schedule A, Line 11), which includes:
 - Payroll tax filings with the IRS
 - State income, payroll and unemployment insurance filings
- Documentation for nonpayroll costs requested to be forgiven to establish existence prior to Feb. 15, 2020, and eligible payments within the covered period, which can include:
 - Copy of lender amortization schedule or canceled checks to verify payments or lender account statements from February 2020 and the months during the covered period through one month following the covered period to verify interest amounts and payments for business mortgage interest
 - Copy of current lease agreement, or receipts or canceled checks verifying eligible payments during the covered period, or lessor account statements from February 2020 and the months during the covered period through one month following the covered period to verify interest amounts and payments for business rent or lease payments
 - Copy of invoices from February 2020 and the covered period, as well as receipts, canceled checks or account statements from these months verifying eligible utility payments

While employers are not required to submit the PPP Schedule A Worksheet and any documentation supporting FTE and salary or wage reduction calculations, job offers or refusals, firings, voluntary resignations, voluntary requests and reductions in hours, and safe harbor calculations, this worksheet and documentation must be maintained.

After submitting an Application, lenders must make a decision on whether an employer's PPP loan will be forgiven, or how much of the loan will be forgiven, within 60 days. In some cases, a lender may ask for additional information. Employers should monitor their Application and pay attention to any requests for additional information. For questions on your company's loan forgiveness eligibility or Application, contact your lender.

For more information on how your company can respond to the COVID-19 pandemic, contact Wallace Welch & Willingham.