**HOW TO PROCESS PAYCHECK PROTECTION PROGRAM - LOAN FORGIVENESS**

**BORROWERS WITH 8-WEEK COVERED PERIOD USAGE**

Now that you’ve received your Paycheck Protection Program (PPP) loan proceeds you may now be eligible to have a portion or all of the outstanding loan balance, including accrued interest, forgiven. The primary purpose of the PPP was to assist businesses adversely affected by the COVID-19 emergency retain their workforce and assist with certain ongoing operational expenses. The PPP Loan Forgiveness process can start as soon as 8-weeks from the time your loan was funded once the SBA begins accepting applications for forgiveness.

**This Loan Forgiveness communication is targeted mainly towards borrowers that can use their loan proceeds in an 8-week covered period, following the funding of their PPP Loan. If this is NOT you, and you need to use the parameters laid out in the PPP Flexibility Act (PPPFA), another email will follow this one that you should also read.**

**CAN I USE THE 8 WEEK COVERED PERIOD?**

If you were able to retain or rehire staff during the 8-week covered period following the funding of your PPP loan and your payroll expenses are at least 75% of your loan amount while non-payroll related expenses of rent, utilities and interest cover the remaining portion of your loan amount, you should submit your forgiveness application now.

* The original program is most applicable to borrowers that provided essential services and were able to retain or rehire staff and the self-employed.
  + If you utilize a third party to process your payroll, you may submit reports from such services in lieu of IRS quarterly reporting along with invoices and evidence of payment for any non-payroll cost paid or incurred during the 8-week covered period. If you do not utilize the services of a third-party payroll provider, you need to provide copies of your IRS 941 filings.
  + If you are self-employed with no employees, you may submit evidence of cash compensation through bank statements and/or cancelled checks.

For complete details of the program, please also see Interim Final Rule: Small Business Administration Docket No. SBA-2020-0015 13 CFR Part 120 Business Loan Program Temporary Changes; Paycheck Protection Program RIN 3245-AH34. <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>; <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

**WHEN CAN YOU SUBMIT YOUR LOAN FORGIVENESS PACKAGE?**

* Once the SBA begins accepting applications for forgiveness, every Borrower should aim to apply for forgiveness as soon as possible to ensure a timely approval of your forgiveness amount.
* Once the SBA begins accepting applications for forgiveness, you can submit for loan forgiveness starting as soon as the 8th week following the initial loan funding.

**COMPLETE YOUR LOAN FORGIVENESS APPLICATION** (Form: *SBA Form 3508 (05/20)*)

* The bank has provided you with the SBA Authorization Number, Bank Loan Number, and the disbursement date of the loan in a prior email on June 5th.
* Please follow the Loan Forgiveness Application Instructions for Borrowers.

**Please provide the following required documentation items to support the eligible usage of your loan proceeds during the 8-week covered period, following the funding of your PPP loan:**

* Copies of payroll tax reports filed with the IRS (including Forms 941, state income and unemployment tax filing reports) or equivalent third-party payroll service provider reports.
* Copies of payroll reports for each pay period (including partial pay periods in some cases). Gross wages including Paid Time Off (PTO), which might include vacation, sick and other PTO, in addition to supporting documentation for the Full-time Equivalent (FTE) calculations should be included.
* Documentation reflecting the health insurance premiums paid by the company under a group health plan including owners of the company. Copies of monthly invoices should suffice.
* Documentation of all retirement plan funding by the employer. Copies of workpapers, schedules and remittances to the retirement plan administrator should be available.
* Copies of all real estate lease agreements incurred prior to February 15, 2020 should be presented along with proof of payment. Cancelled checks should be sufficient and/or;
* Copies of all mortgage statements of interest paid on company occupied commercial real estate for debt obligations incurred prior to February 15, 2020 should be presented along with proof of payment. Cancelled checks should be sufficient.
* Copies of cancelled checks, statements or other evidence of eligible utilities paid.

Note, for Self-Employed Income for single-member LLCs, sole-proprietorships, Independent Contractors, Self-employed individuals please include the following information:

* Evidence via cancelled checks of total amount paid to owner-employee/self-employed individual/general partners not to exceed $15,385 in cash compensation for line 1 of the PPP Schedule A in the loan forgiveness application.

**HOW TO SUBMIT YOUR COMPLETE LOAN FORGIVENESS PACKAGE**

*PLEASE NOTE – IT IS VERY IMPORTANT THAT YOU SUBMIT A COMPLETE PACKAGE. DUE TO CURRENT LOAN PROCESSING VOLUME, IF YOUR PACKAGE IS NOT COMPLETE, IT COULD DELAY THE LOAN FORGIVENESS PROCESS.*

* Upload the following items to your box.com folder, sent to you previously during your application process:
  + Completed PPP Loan Forgiveness Application, pages 3, 4 and 6. These pages represent the PPP Loan Forgiveness Calculation Form, Borrower certifications and signature, and PPP Schedule A.
  + The supporting documents, as noted above.
* Once you have uploaded your COMPLETE PACKAGE, please send the following email to [PPP@summitstatebank.com](mailto:PPP@summitstatebank.com):
  + Subject Line: Complete Forgiveness Package Uploaded
  + Body of the email should include the Applicant Name and contact information.

**WHAT TO EXPECT**

* Once your complete loan forgiveness package is submitted, your assigned bank officer will process your information.
* Due to the volume constraints, we will aim to send you a confirmation within 5 business days that your package has been received and is complete, or that other items are necessary to process your package. We appreciate your patience and will be processing Forgiveness Applications as soon as possible.

***FREQUENTLY ASKED QUESTIONS***

***Reductions to Loan Forgiveness Amount***

Section 1106 of the CARES Act specifically requires certain reductions in a borrower’s loan forgiveness amount based on reductions in full-time equivalent employees or in employee salary and wages during the covered period, subject to an important statutory exemption for borrowers who have rehired employees and restored salary and wage levels by June 30, 2020 (with limitations). In addition, SBA and Treasury are adopting a regulatory exemption to the reduction rules for borrowers who have offered to rehire employees or restore employee hours, even if the employees have not accepted. The instructions to the loan forgiveness application and the guidance below explains how the statutory forgiveness reduction formulas work.

***a. Will a borrower’s loan forgiveness amount be reduced if the borrower laid-off or reduced the hours of an employee, then offered to rehire the same employee for the same salary and same number of hours, or restore the reduction in hours, but the employee declined the offer?***

No. Employees whom the borrower offered to rehire are generally exempt from the CARES Act’s loan forgiveness reduction calculation. This exemption is also available if a borrower previously reduced the hours of an employee and offered to restore the employee’s hours at the same salary or wages. Specifically, in calculating the loan forgiveness amount, a borrower may exclude any reduction in full-time equivalent employee headcount that is attributable to an individual employee if:

i. the borrower made a good faith, written offer to rehire such employee (or, if applicable, restore the reduced hours of such employee) during the covered period or the alternative payroll covered period;

ii. the offer was for the same salary or wages and same number of hours as earned by such employee in the last pay period prior to the separation or reduction in hours;

iii. the offer was rejected by such employee;

iv. the borrower has maintained records documenting the offer and its rejection; and

v. the borrower informed the applicable state unemployment insurance office of such employee’s rejected offer of reemployment within 30 days of the employee’s rejection of the offer.

The Administrator and the Secretary determined that this exemption is an appropriate exercise of their joint rulemaking authority to grant *de minimis* exemptions under section 1106(d)(6).5 Section 1106(d)(2) of the CARES Act reduces the amount of the PPP loan that may be forgiven if the borrower reduces full-time equivalent employees during the covered period as compared to a base period selected by the borrower. Section 1106(d)(5) of the CARES Act waives this reduction in the forgiveness amount if the borrower eliminates the reduction in full-time equivalent employees occurring during a different statutory reference period6 by not later than June 30, 2020. The Administrator and the Secretary believe that the additional exemption set forth above is consistent with the purposes of the CARES Act and provides borrowers appropriate flexibility in the current economic climate. The Administrator, in consultation with the Secretary, have determined that the exemption is *de minimis* for two reasons. First, it is reasonable to anticipate that most laid-off employees will accept the offer of reemployment in light of current labor market conditions. Second, to the extent this exemption allows employers to cure FTE reductions attributable to terminations that occurred before February 15, 2020 (the start of the statutory FTE reduction safe harbor period), it is reasonable to anticipate those reductions will represent a relatively small portion of aggregate employees given the historically strong labor market conditions before the COVID-19 emergency.

***b. What effect does a reduction in a borrower’s number of full-time equivalent (FTE) employees have on the loan forgiveness amount?***

In general, a reduction in FTE employees during the covered period or the alternative payroll covered period reduces the loan forgiveness amount by the same percentage as the percentage reduction in FTE employees. The borrower must first select a reference period: (i) February 15, 2019 through June 30, 2019; (ii) January 1, 2020 through February 29, 2020; or (iii) in the case of a seasonal employer, either of the two preceding methods or a consecutive 12-week period between May 1, 2019 and September 15, 2019.7 If the average number of FTE employees during the covered period or the alternative payroll covered period is less than during the reference period, the total eligible expenses available for forgiveness is reduced proportionally by the percentage reduction in FTE employees. For example, if a borrower had 10.0 FTE employees during the reference period and this declined to 8.0 FTE employees during the covered period, the percentage of FTE employees declined by 20 percent and thus only 80 percent of otherwise eligible expenses are available for forgiveness.

***c. What does “full-time equivalent employee” mean?***

Full-time equivalent employee means an employee who works 40 hours or more, on average, each week. The hours of employees who work less than 40 hours are calculated as proportions of a single full-time equivalent employee and aggregated, as explained further below in subsection d.

The CARES Act does not define the term “full-time equivalent employee,” and the Administrator, in consultation with the Secretary, has determined that full-time equivalent is best understood to mean 40 hours or more of work each week. The Administrator considered using a 30 hour standard but determined that 40 hours or more of work each week better reflects what constitutes full-time employment for the vast majority of American workers.

***d. How should a borrower calculate its number of full-time equivalent (FTE) employees?***

Borrowers seeking forgiveness must document their average number of FTE employees during the covered period (or the alternative payroll covered period) and their selected reference period. For purposes of this calculation, borrowers must divide the average number of hours paid for each employee per week by 40, capping this quotient at 1.0. For example, an employee who was paid 48 hours per week during the covered period would be considered to be an FTE employee of 1.0.

For employees who were paid for less than 40 hours per week, borrowers may choose to calculate the full-time equivalency in one of two ways. First, the borrower may calculate the average number of hours a part-time employee was paid per week during the covered period. For example, if an employee was paid for 30 hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.75. Similarly, if an employee was paid for ten hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.25. Second, for administrative convenience, borrowers may elect to use a full-time equivalency of 0.5 for each part-time employee. The Administrator recognizes that not all borrowers maintain hours-worked data and has decided to afford such borrowers this flexibility in calculating the full-time equivalency of their part-time employees.

Borrowers may select only one of these two methods and must apply that method consistently to all of their part-time employees for the covered period or the alternative payroll covered period and the selected reference period. In either case, the borrower shall provide the aggregate total of FTE employees for both the selected reference period and the covered period or the alternative payroll covered period, by adding together all of the employee-level FTE employee calculations. The borrower must then divide the average FTE employees during the covered period or the alternative payroll covered period by the average FTE employees during the selected reference period, resulting in the reduction quotient.

The Administrator, in consultation with the Secretary, determined that because the Act does not define the term FTE employee, this approach to measurement of FTE is a reasonable and appropriate exercise of the Administrator’s rulemaking authority, as it balances the need for a reasonable measurement of FTE employee headcount with the need to limit borrower compliance burdens and ensure administrative feasibility.

***e. What effect does a borrower’s reduction in employees’ salary or wages have on the loan forgiveness amount?***

Under section 1106(d)(3) of the CARES Act, a reduction in an employee’s salary or wages in excess of 25 percent will generally result in a reduction in the loan forgiveness amount, unless an exception applies. Specifically, for each new employee in 2020 and each existing employee who was not paid more than the annualized equivalent of $100,000 in any pay period in 2019, the borrower must reduce the total forgiveness amount by the total dollar amount of the salary or wage reductions that are in excess of 25 percent of base salary or wages between January 1, 2020 and March 31, 2020 (the reference period), subject to exceptions for borrowers who restore reduced wages or salaries (see g. below). This reduction calculation is performed on a per employee basis, not in the aggregate.

Example: A 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 reduction. Borrowers seeking forgiveness would list $400 as the salary/hourly wage reduction for that employee (the extra $50 weekly reduction multiplied by eight weeks).

The provision implements section 1106(d)(3) of the CARES Act, which provides that “the amount of loan forgiveness shall be reduced by the amount of any reduction in total salary or wages of any employee [who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than $100,000] during the covered period that is in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period.”

***f. How should borrowers seeking loan forgiveness account for the reduction based on a reduction in the number of employees?***

To ensure that borrowers are not doubly penalized, the salary/wage reduction applies only to the portion of the decline in employee salary and wages that is *not* attributable to the FTE reduction.

The Act does not address the intersection between the FTE employee reduction provision in section 1106(d)(2) and the salary/wage reduction provision in section 1106(d)(3). To help ensure uniformity across all borrowers in applying the FTE reduction provision and the salary/wage reduction provision, the Administrator, in consultation with the Secretary, has determined that the salary/wage reduction applies only to the portion of the decline in employee salary and wages that is *not* attributable to the FTE reduction. This approach will help ensure that borrowers are not doubly penalized for reductions.

Example: An hourly wage employee had been working 40 hours per week during the borrower selected reference period (FTE employee of 1.0) and the borrower reduced the employee’s hours to 20 hours per week during the covered period (FTE employee of 0.5). There was no change to the employee’s hourly wage during the covered period. Because the hourly wage did not change, the reduction in the employee’s total wages is entirely attributable to the FTE employee reduction and the borrower is not required to conduct a salary/wage reduction calculation for that employee.

The Administrator considered applying the salary/wage reduction provision in addition to the FTE reduction in situations similar to the example above because section 1106(d)(3) refers to reductions in “total salary or wages” in excess of 25 percent. However, the Administrator determined that, based on the structure of section 1106(d)(2) and section 1106(d)(3), Congress intended to distinguish between an FTE reduction on the one hand and a reduction in hourly wages or salary on the other hand. This interpretation harmonizes the two loan forgiveness reduction provisions in a logical manner consistent with the statute.

***g. If a borrower restores reductions made to employee salaries and wages or FTE employees by not later than June 30, 2020, can the borrower avoid a reduction in its loan forgiveness amount?***

Yes. Section 1106(d)(5) of the CARES Act provides that if certain employee salaries and wages were reduced between February 15, 2020 and April 26, 2020 (the safe harbor period) but the borrower eliminates those reductions by June 30, 2020 or earlier, the borrower is exempt from any reduction in loan forgiveness amount that would otherwise be required due to reductions in salaries and wages under section 1106(d)(3) of the CARES Act. Similarly, if a borrower eliminates any reductions in FTE employees occurring during the safe harbor period by June 30, 2020 or earlier, the borrower is exempt from any reduction in loan forgiveness amount that would otherwise be required due to reductions in FTE employees.

This provision implements section 1106(d)(5) of the CARES Act, which gives borrowers an opportunity to cure reductions in FTEs, salary/wage reductions in excess of 25 percent, or both, using the applicable methodology set forth in section 1106(d)(5). The Act provides that the reduction in FTEs or the reduction in salary/hourly wages must be eliminated “not later than June 30, 2020.” This does not change or affect the requirement that at least 75 percent of the loan forgiveness amount must be attributable to payroll costs.

***h. Will a borrower’s loan forgiveness amount be reduced if an employee is fired for cause, voluntarily resigns, or voluntarily requests a schedule reduction?***

No. When an employee of the borrower is fired for cause, voluntarily resigns, or voluntarily requests a reduced schedule during the covered period or the alternative payroll covered period (FTE reduction event), the borrower may count such employee at the same full-time equivalency level before the FTE reduction event when calculating the section 1106(d)(2) FTE employee reduction penalty. The Administrator and the Secretary have decided to exempt such employees from the calculation of the FTE reduction penalty.

Section 1106 is silent concerning how to account for employees who are fired for cause, voluntarily resign, or voluntarily request a reduced schedule. The Administrator and the Secretary have determined that such an exemption is *de minimis*, because a limited number of borrowers will face an FTE reduction event during the covered period, or the alternative payroll covered period. Further, borrowers should not be penalized for changes in employee headcount that are the result of employee actions and requests. Borrowers that avail themselves of this *de minimis* exemption shall maintain records demonstrating that each such employee was fired for cause, voluntarily resigned, or voluntarily requested a schedule reduction. The borrower shall provide such documentation upon request.