



SBA Paycheck Protection Program Loan Loan Forgiveness Rules and Illustrations

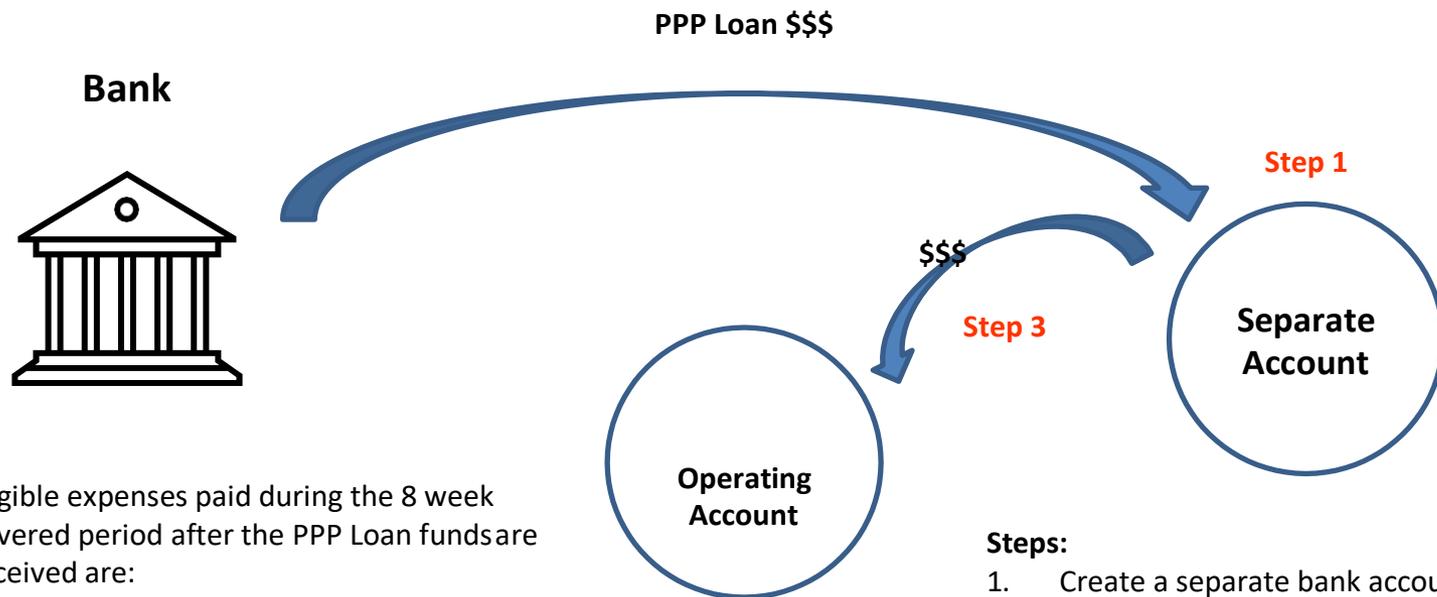
Date: May 24, 2020



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PPP Loan Forgiveness – Operational Process



Notes:

1. Eligible expenses paid during the 8 week covered period after the PPP Loan funds are received are:
 - Payroll costs
 - Mortgage interests
 - Rent; and
 - Utilities
2. 75% of the loan amount is used for eligible payroll costs and no more than 25% of the forgivable amount may be used for eligible

Steps:

1. Create a separate bank account (if possible) and/or separate G/L account to document how the funds are spent.
2. Make payments to eligible payroll costs and non-payroll costs from Operating Account.
3. Transfer funds from Separate Account to

Step 2 \$\$\$



- non-payroll costs.
3. Transfer funds to cover payroll costs first, then non-payroll costs.

**Eligible payroll costs
and
Non-payroll costs**

Operating Account after the eligible expenses are incurred. Make sure to document clearly the purpose of each fund transfer.

#	Questions	Answers
1	Can my PPP loan be forgiven in whole or in part?	<p>Yes. The amount of loan forgiveness can be up to the full principal amount of the loan. That is, the borrower will not be responsible for any loan payment if the borrower uses all of the loan proceeds for forgivable purposes described below and employee and compensation levels are maintained.</p> <p>The forgivable amount of the PPP loan depends on the borrower’s payroll and non-payroll costs incurred during the eight-week period, beginning on Date the lender makes the first disbursement of the PPP loan to the borrower (“8-week Covered Period”).</p> <p>For administrative convenience, Borrowers with a Bi-Weekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the 8-week (56-day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date (the “Alternative Payroll Covered Period”).</p>

>>ERB Comment

- **Based on the latest SBA Loan Forgiveness Application Form and instructions, the Forgivable Amount is the principal or “PPP Loan Amount” only and does not include interest.**
- Despite most areas of the country is subject to a shelter-in-place order, the SBA clarified that the 8-week Covered Period begins on the date the borrower receives the disbursement of the loan. As a result, a business that took out a PPP loan in the past few weeks **must start the clock immediately upon receipt of the funds under the “8-week Covered Period,”** regardless of whether their business restarted operations or not.
- Regardless of whether the Borrower elects to use the Alternative Payroll Covered Period for payroll costs or not, it must continue to use 8-week **Covered Period** to keep track of all **non-payroll costs**, such as rent, interest and utilities.
- The election to choose Alternative Payroll Covered Period only applies to business with a Bi-Weekly or more frequent payroll schedule. Therefore, until further guidance is issued to loosen the rules, businesses with less frequent payroll schedule (e.g. monthly or semi-monthly) are not eligible to use the Alternative Payroll Covered Period.

#	Questions	Answers
2	What amounts are borrowers allowed to have forgiven under the CARES Act?	<p>The amount that can be forgiven is the sum of:</p> <p>Payroll Costs paid or incurred during the 8-week Covered Period (or Alternative Payroll Covered Period). Such costs includes:</p> <ul style="list-style-type: none"> • Salary, wages, commissions, or similar compensation; • Cash tips or the equivalent; • Payment for vacation, parental, family, medical, or sick leave; • Allowance for separation or dismissal; • Payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; • Payment of state and local taxes assessed on compensation of employees; and • Wages, commissions, income, or net earnings from self-employment, or similar compensation [For independent contractor or sole proprietor] <p>For each individual employee: cash compensation eligible for forgiveness is capped at \$15,385 (as prorated for the covered period based on annual salary of \$100,000) For each owner-employee or self-employed individual/general partner: compensation paid to owners eligible for forgiveness is capped at \$15,385 (the eight-week equivalent of \$100,000 per year) or the eight-week equivalent of their applicable compensation/net earnings (for Sch C filer)/self-employed income (for general partner) in 2019, whichever is lower.</p> <p>75% of the loan forgiveness amount must be used for eligible payroll expenses.</p>

>>ERB Comment

- SBA clarified that the employee’s **hazard pay and bonuses** are eligible for loan forgiveness because they constitute a supplement to salary or wages, and are thus a similar form of compensation. The guidance did not specifically mention about overtime pay but, similar to bonus, it is expected to count as payroll costs, up to a prorated basis of \$100,000 of annual salary. [5/24/2020]
- Payroll costs incurred but not paid during the Borrower’s last pay period of the Covered Period or Alternative Payroll Covered Period are eligible for forgiveness if paid **on or before the next regular payroll date**.

#	Questions	Answers
2	What amounts are borrowers allowed to have forgiven under the CARES Act? (cont'd)	<p>The amount that can be forgiven is the sum of:</p> <p>Non-Payroll Costs paid or incurred during the 8-week Covered Period.</p> <p>Such costs includes:</p> <ul style="list-style-type: none"> • Interest for mortgage obligations, incurred before February 15, 2020 • Rent, under lease agreements in force before February 15, 2020 • Utility Payments, for which service began before February 15, 2020 <p>Utility payments refer to business payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access.</p> <p>No more than 25% of the loan forgiveness amount is used for eligible non-payroll costs.</p>

>>ERB Comment

- Nonpayroll cost incurred during the Covered Period and paid on or before the next regular billing date are deemed as eligible nonpayroll costs, even if the billing date is after the Covered Period.

#	Questions	Answers
2	What amounts are borrowers allowed to have forgiven under the CARES Act? (cont'd)	<p><u>Illustration – Amount Potentially Forgivable before Reduction</u></p> <p>ABC Company received a PPP loan in the amount of \$1,000,000. Costs incurred during the 8-week Covered Period consisted of:</p> <ul style="list-style-type: none"> • Salaries, wages, and paid time off of \$465,000 (limited to annualized salaries of \$100,000 or \$15,385 per individual) • Health care expenses of \$150,000 • Retirement contributions of \$75,000 • State unemployment insurance of \$10,000 • Rental expenses of \$150,000 • Utilities of \$50,000 <p><i>Calculation:</i></p> <p>Total qualifying payroll costs= \$700,000 (\$465,000+\$150,000+\$75,000+\$10,000)</p> <p>Total qualifying non-payroll costs= \$200,000 (\$150,000+\$50,000)</p> <p>Total qualifying payroll and non-payroll costs = \$900,000 (A)</p> <p>[Assuming total amount are not subject to any reduction limitation]</p> <p>PPP Loan Amount = \$1,000,000 (B)</p> <p>Calculated potential PPP Loan forgiveness amount (based on 75% payroll cost requirement) = \$933,333 (\$700,000 / 75%) (C)</p> <p>Calculated maximum PPP Loan forgiveness amount = \$900,000 (Lesser of A or B or C)</p>

>>ERB Comment

- If total qualifying payroll costs were \$900,000 and total qualifying non-payroll costs were \$200,000, then the total costs eligible for forgiveness is the entire loan amount of \$1,000,000. The total costs forgiven cannot exceed the loan amount.

#	Questions	Answers
3	How much of my loan will be forgiven?	<p>You will owe money when your loan is due if you use the loan amount for anything other than eligible costs over the 8-week Covered Period. Not more than 25% of the forgiven amount may be for non-payroll costs. Your forgiveness amount will also be reduced if you do not maintain your staff and payroll at levels prior to the Covid-19 pandemic.</p> <ul style="list-style-type: none"> • Number of Staff: Your loan forgiveness will be reduced if you decrease your full-time equivalent employee headcount (“FTE employees”). • Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made no more than \$100,000 annualized in 2019 or through 12-month period.

>>ERB Comment

- For purposes of loan forgiveness, the CARES Act uses the standard of “fulltime equivalent employees”(“FTE employees”) to determine the extent to which the loan forgiveness amount will be reduced **in the event of workforce reductions**. To calculate the average FTE during the Covered Period or the Alternative Payroll Covered Period, for each employee, enter the **average number of hours paid per week**, divide by **40**, and round the total to the nearest tenth. The maximum for each employee is capped at 1.0.
- A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and **0.5 for employees who work fewer hours** may be used at the election of the Borrower. Once elected, you must apply that method consistently to all of their part-time employees for the covered period (or alternative payroll covered period) and the selected reference period.

#	Questions	Answers
3	How much of my loan will be forgiven? (cont'd)	<p><u>FTE and Salary/Hourly Wage Reduction Safe Harbor</u> You have until June 30, 2020 to restore your full-time equivalent employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.</p> <p><u>De Minimis Exemption</u></p> <ul style="list-style-type: none"> • Employees whom the borrower offered to rehire (for the same salary and same number of hours) are generally exempt from the CARES Act’s loan forgiveness reduction calculation. • 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.

>>ERB Comment

- To qualify for the De Minimis Exemption, the Borrower must maintain records documenting the offer, its rejection, and 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.

#	Questions	Answers
3	<p>How much of my loan will be forgiven? (cont'd)</p>	<p><u>Illustration - Reduction Relating to Salary and Wages</u></p> <ul style="list-style-type: none"> • ABC Company has PPP Loan of \$1,000,000 that is potentially forgivable before reduction. • ABC Company has 8 employees who did not receive, during 2019, salary of more than \$100,000 at an annualized rate of pay (“100K employees”). • ABC Company employees’ salary/wage income are listed as below: <ul style="list-style-type: none"> • Total salaries of 100K employees received during 8-week Covered Period: \$42,000 • Total salaries of 100K employees received during the most recent full quarter (2020 Q1) prior to 8-week Covered Period: \$95,000 • Number of 100K employees whose wages were reduced by 25% or more between 2/15/2020 - 4/26/2020: 3 • Number of 100K employees whose wages were reduced by 25% or more between 2/15/2020 - 4/26/2020 but restored by 6/30/2020: 2 <p><i>Calculation:</i></p> <p>Total annualized salaries for 100K employees based on 8-week Covered Period = \$273,000 ($\\$42,000/8*52$)</p> <p>Total annualized salaries of 100K employees received based on the most recent full quarter = \$380,000 ($\\$95,000*4$)</p> <p>Percentage of reduction in salaries of 100K employees during 8-week Covered Period = $(\\$380,000 - \\$273,000)/\\$380,000 = 28.16\% > 25\%$</p> <p>Amount potentially not forgivable (due to reduce in salary and wages level) = $(\\$380,000*75\%-\\$273,000)*8/52 = \mathbf{\\$1,846}$</p>

>>ERB Comment

- For purposes of this calculation, entities do not need to consider employees making more than \$100,000 of annualized salary at any time during 2019.

#	Questions	Answers
3	How much of my loan will be forgiven? (cont'd)	<p><u>Illustration - Reduction Relating to Salary and Wages</u></p> <p>Since the employees whose wages were reduced by 25% or more during 2/15/2020 – 4/26/2020 were not fully restored by 6/30/2020, the reduction in salary is not eliminated, thus amount not forgivable due to reduce in wages will be \$1,846.</p>

#	Questions	Answers
3	How much of my loan will be forgiven? (cont'd)	<p><u>Illustration - Reduction in Number of FTE Headcounts</u></p> <ul style="list-style-type: none"> • ABC Company has PPP Loan of \$1,000,000 that is potentially forgivable before reduction. • ABC Company's FTE Headcounts are listed as below: <ul style="list-style-type: none"> • Weekly average FTE employees for 8-week Covered Period: 6 (A) • Weekly average FTE employees for the period 2/15/2019 - 6/30/2019: 8 (B) • Weekly average FTE employees for the period 1/1/2020 - 2/29/2020: 7 (C) • Number of FTE employees lost between 2/15/2020 - 4/26/2020: 2 • Number of FTE employees rehired and added by 6/30/2020: 1 <p><i>Calculation:</i> Baseline monthly FTE employees = 7 (D, Lesser of B or C) Percentage potentially not forgivable (due to reduce in headcounts) = $1 - 6/7$ (A/D) = 14.29% Amount potentially not forgivable (due to reduce in headcounts) = $\\$1,000,000 * 14.29\% =$ \$142,900</p> <p>Since the FTE employee headcount lost during 2/15/2020 – 4/26/2020 was not fully rehired by 6/30/2020, the reduction in FTE employee is not eliminated, thus amount not forgivable due to reduction in headcount will remain \$142,900.</p>

>>ERB Comment

- The reduction due to FTE Headcount is applied to payroll costs after the salary reduction to prevent a “double-dipping” reduction effect on total payroll costs. This is 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.

#	Questions	Answers
4	How can I request loan forgiveness?	You can submit a request to the lender that is servicing the loan. The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days.
5	Is the PPP loan forgiveness taxable?	<p>The forgiveness of small business loans under the Paycheck Protection Program (PPP) will not be subject to federal income tax.</p> <p>The IRS issued Notice 2020-32 stating taxpayers may not deduct expenses that were paid by Paycheck Protection Program loans if the payment of the expenses results in loan forgiveness under the program.</p>

>>ERB Comment

- Sec. 1106 of the Act provides that any forgiveness of a Paycheck Protection Program loan under the Act is excluded from the recipient's federal gross income. However, the Act does not specifically modify Code Sec. 108, related to cancellation of indebtedness income. While states broadly conform to federal treatment of cancellation of indebtedness income under Code Sec. 108 (with some exceptions), **it is not clear how the loan forgiveness will be treated at the state level** if it is not effectuated via Code Sec. 108.
- The AICPA holds a different position on the nondeductibility of PPP-related expenses treatment and plans to seek legislative clarification.

#	Questions	Answers
6	What kind of documents do I need to prepare for Loan Forgiveness purposes?	<p>Generally, you should get the following documents ready to be given to the lender for loan forgiveness purposes (your lender may require different or additional data):</p> <p><u>Payroll costs:</u></p> <ol style="list-style-type: none"> 1. Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees. 2. 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. <ol style="list-style-type: none"> I. Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and II. State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state. 3. 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. 4. Documentation showing the average number of FTE employees on payroll per month employed by the Borrower for applicable periods. Such documents may include 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. Documents submitted may cover periods longer than the specific time period.

#	Questions	Answers
6	What kind of documents do I need to prepare for Loan Forgiveness purposes? (cont'd)	<p><u>Non-Payroll costs:</u></p> <ol style="list-style-type: none"> <li data-bbox="510 458 1808 601">1. <i>Business mortgage interest payments:</i> 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. <li data-bbox="510 648 1792 791">2. <i>Business rent or lease payments:</i> 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. <li data-bbox="510 838 1769 943">3. <i>Business utility payments:</i> Copy of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments.

#	Questions	Answers
7	What borrower representations and statements will SBA review?	<p>The Administrator is authorized to review the following:</p> <p><u>Borrower Eligibility:</u> The Administrator may review whether a borrower is eligible for the PPP loan based on the provisions of the CARES Act, the rules and guidance available at the time of the borrower’s PPP loan application, and the terms of the borrower’s loan application. The eligibility includes, but not limited to:</p> <ul style="list-style-type: none"> • 500-employee threshold for the business and its affiliation • Economic need for a PPP loan • Certain disqualified business <p><u>Loan Amounts and Use of Proceeds:</u> The Administrator may review whether a borrower calculated the loan amount correctly and used loan proceeds for the allowable uses specified in the CARES Act.</p> <p><u>Loan Forgiveness Amounts:</u> The Administrator may review whether a borrower is entitled to loan forgiveness in the amount claimed on the borrower’s Loan Forgiveness Application (SBA Form 3508 or lender’s equivalent form).</p>

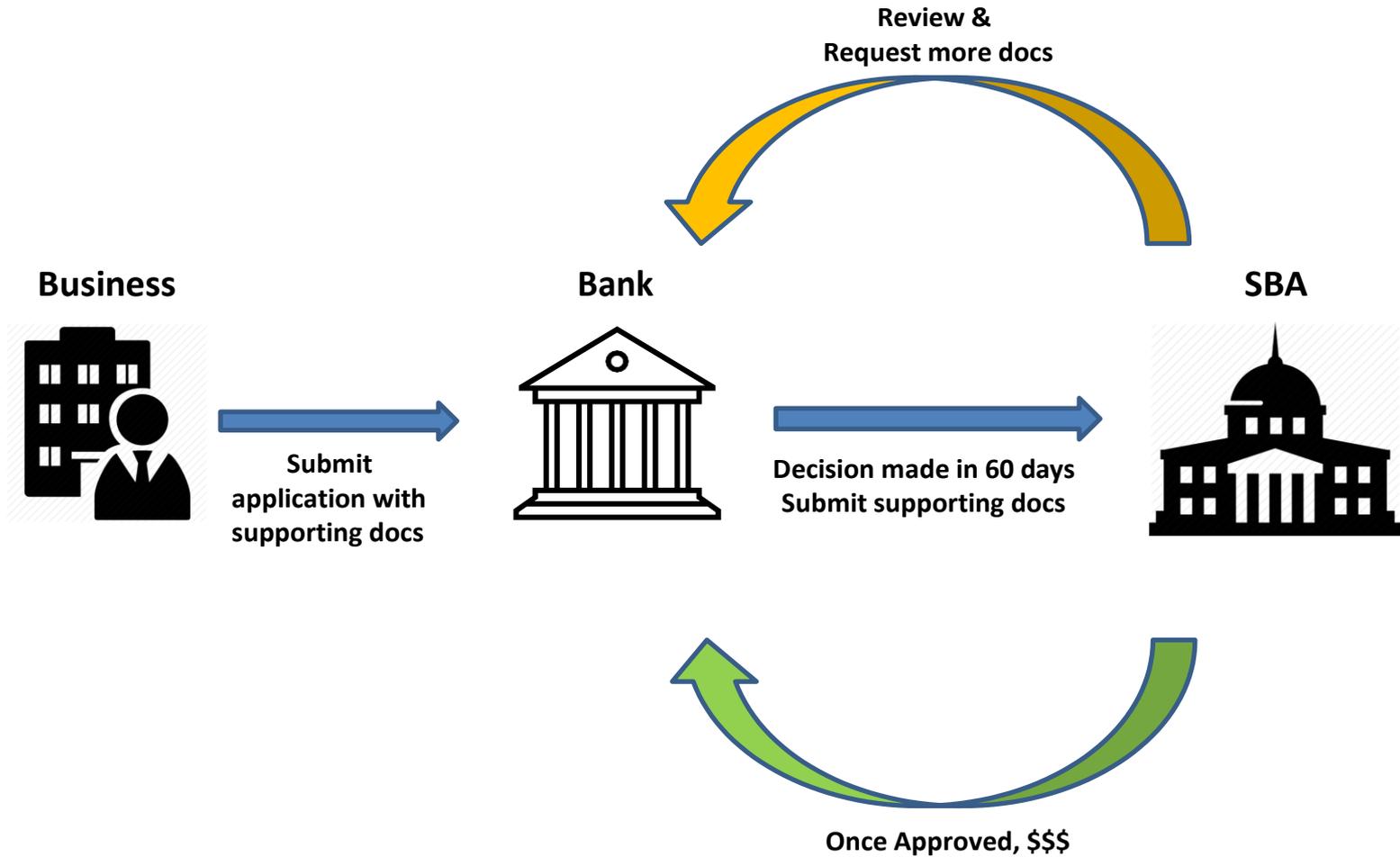
>>ERB Comment

- **For a PPP loan of any size, SBA may undertake a review at any time at their discretion.** As noted on the Loan Forgiveness Application Form, the borrower must retain PPP documentation in its files for **six years** after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.
- Any borrower that, together with its affiliates, received PPP loans with an original principal amount of **less than \$2 million** will be deemed to have made the required certification concerning **the necessity of the loan request in good faith**.

#	Questions	Answers
8	<p>What happens if PPP loan funds are misused?</p>	<p>If you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud. If one of your shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.</p> <p>SBA has stated that all PPP loans in excess of \$2 million, and other PPP loans as appropriate, will be subject to review by SBA for compliance with program requirements set forth in the PPP Interim Final Rules and in the Borrower Application Form.</p> <p>If the SBA determines that a borrower is ineligible for the PPP loan, SBA will direct the lender to deny the loan forgiveness application. Further, SBA may also seek repayment of the outstanding PPP loan balance or pursue other available remedies. If borrower disagrees with SBA's determination, it may appeal the SBA's determination. A separate interim final rule addressing this process will be issued later by the SBA.</p> <p>If the borrower repays the loan after receiving notification from the SBA, SBA will not pursue administrative enforcement or refer to other agencies based on its determination with respect to the certification concerning necessity of the loan request.</p> <p>Failure to respond to SBA's inquiry may result in a determination that the borrower was ineligible for a PPP loan or ineligible to receive the loan amount or loan forgiveness amount claimed by the borrower.</p>

Actions

- | | |
|--------|--|
| Step 1 | Track total eligible costs incurred and paid during the 8-week Covered Period following the loan funding |
| Step 2 | Calculate payroll costs for forgiveness floor |
| Step 3 | Calculate any % decrease in FTE employees from 8-week Covered Period |
| Step 4 | Calculate any reduction in payroll > 25% of prior quarter |
| Step 5 | Calculate any adjustment because FTE headcounts and salaries were restored by June 30 |



Apply

- The borrower must complete and submit the Loan Forgiveness Application (SBA Form 3508) to its Lender.

Review by Bank

- The Lender will review the application and make decision regarding loan forgiveness within 60 days. Once determined, the Lender must request payment from SBA.

Review by SBA

- SBA will, subject to any SBA review, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment within 90 days.

Process

- If SBA determines that Loan will not be eligible for loan forgiveness, the Lender is required to notify the Borrower.
- If only portion of the Loan is forgivable, any remaining balance must be repaid within 2-year maturity.
- If amount remitted by SBA exceeds the remaining balance, the lender must remit the excess amount to the Borrower.



References:

SBA Paycheck Protection Program (PPP) Information Sheet: Borrowers

<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>

SBA PPP Loan - Frequently Asked Questions (5/19/2020)

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

SBA PPP Loan - Loan Forgiveness Application Form 3508 (5/20/2020)

<https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>

SBA PPP Loan - Interim Final Rule on Loan Forgiveness (5/22/2020)

<https://home.treasury.gov/system/files/136/PPP-IFR-Loan-Forgiveness.pdf>

SBA PPP Loan - Interim Final Rule on SBA Loan Review Procedures and Related Borrower and Lender Responsibilities (5/22/2020)

<https://home.treasury.gov/system/files/136/PPP-IFR-SBA-Loan-Review-Procedures-and-Related-Borrower-and-Lender-Responsibilities.pdf>

AICPA offers recommendations for loan forgiveness under PPP



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<https://www.aicpa.org/content/dam/aicpa/interestareas/privatecompaniespracticesection/qualityservicesdelivery/ussba/downloadabledocuments/coronavirus-ppp-loan-forgiveness-calculation-steps.pdf>



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