

Will Your PPP Loan be Forgiven? The Devil is in the Details.

The Paycheck Protection Program (PPP loan) was created to provide loans to help businesses keep their workforce employed during the Coronavirus (COVID-19) crisis. What makes a PPP loan so enticing is the potential for it to be forgiven up to 100%. The challenge is that banks and small businesses have not received definitive guidance on how the PPP loan will be forgiven. This adds anxiety to an already difficult situation as business owners are left wondering what will be required in order to get this loan forgiven.

Here is what we know (now) about the PPP loan forgiveness. As we have seen from the loan process, government guidance can change so be prepared and flexible:

- After the loan is funded, in order to qualify for the loan forgiveness there is a two-step process.
 1. Businesses will need to aggregate the total payments for the 8 week period, after the date of funding (the "8 week post funding period"), for payroll costs, interest (but not loan principle) payments, rent payments and certain utilities.
 2. Then, compare the organizations average monthly full-time equivalent (FTE) employees during the 8 week post funding period to a "comparison period," defined as:
 - o Average monthly FTE employees from February 15, 2019 through June 30, 2019; or
 - o Average monthly FTE employees from January 1, 2020 through February 29, 2020.
 - o Seasonal employers must use a comparison period of February 15, 2019 through June 30, 2019.
- Those applying should note that the Small Business Administration (SBA) has stated that no more than 25% of forgiveness can be from non-payroll costs. The SBA has also clarified that any interest that accrues before the loan is forgiven or paid will be at the borrower expense.
- Full forgiveness will not be available if you reduce FTEs during the covered period or reduce pay of an employee making less than \$100,000 by more than 25%.
- The business will have 10 days from the completion of the 8-week period after receipt of the loan proceeds to request loan forgiveness.
- Your lender will verify the loan forgiveness amount and documents and submit these to the SBA. Upon receipt of the forgiveness request and necessary documents, the SBA will have 90 days to approve or deny the forgiveness.

What we don't yet know is what evidence will be required to demonstrate compliance with the terms and conditions of a PPP loan and what process the banks will use to evaluate how much of the loan proceeds are eligible for forgiveness. Until there is better guidance from Treasury or the SBA on exactly what information will be needed to determine loan forgiveness, this article strives to give practical suggestions of what to do now. Below are eleven suggestions to consider now:

1. Do not consider the PPP loan as a refinancing of existing debt. You may not use PPP proceeds to pay down existing debt principle.

2. Create a PPP Loan File. This file should contain all correspondence, evidence, receipts and supporting documentation of the use of loan proceeds.

3. Track Your Average Monthly FTE Employees. PPP loans are eligible for forgiveness if your organizations average monthly FTE during the 8 week post funding period is the same or higher than one of the approved comparison period dates. If the average monthly FTE in the 8 week post funding period is less than the average FTE in the comparison period, plan that the forgiveness amount will be adjusted downward proportionately.

From a practical standpoint, we suggest tracking FTE's for each of your normal pay periods starting from the earliest date of the approved comparison periods through the date the PPP loan forgiveness is approved. Tracking FTE's in this manner will allow for an easier evaluation of what comparison period is more beneficial to your organization and allows you additional flexibility should revised guidance be issued.

If rehiring employees previously furloughed or laid-off as a result of receiving this loan, track the re-hire statistics clearly.

4. Track Payroll Costs. Payroll costs during the 8 week post funding period must be 76% or more of the comparison period average to be eligible for full forgiveness. Payroll costs include gross wages, employer funded healthcare and retirement costs and state and local payroll taxes.

Similar to #3, we suggest tracking payroll for each of your normal pay periods, and payroll reports and filings created in the normal course of business, starting from the earliest date of the approved comparison periods through the date the PPP loan forgiveness is approved. Tracking payroll costs in this manner will allow for an easier evaluation of what comparison period is more beneficial to your organization and allows you additional flexibility should revised guidance be issued. Ad-hoc analysis and adjustments can be made, if necessary, but the ability to reconcile to your organizations payroll records and filings will be important. Such adjustments may be necessary to the extent you have employees whose wages exceed \$100,000 on annual basis.

5. Track Qualified Non Payroll Costs. The PPP loan allows for up to 25% of the loan proceeds to be spent on non-payroll costs, such as:

- Mortgage interest, on loans originating before February 15, 2020;
- Rent, under lease agreements in force before February 15, 2020; and
- Utilities, for which service began before February 15, 2020.

Keep an electronically accessible detailed log of these payments during the 8 week post funding period. From a practical standpoint, keep related

documentation, including payment remittances, statements, or invoices for proof of payment within the 8-week period.

6. Create a Transaction Log. Create a detailed log of the uses of the loan proceeds. The log should clearly identify when and how the proceeds were used. Prepare a reconciliation from the day the proceeds were received through the date proceeds were depleted. Some organizations may want to set up a separate checking account that receives and disburses the PPP loan proceeds. Others may want to create a separate cash account in their general ledger. Regardless, the objective is to streamline the audit tracking, eliminate commingling and provide additional transparency during your loan forgiveness review with the bank.

7. Consider Implications of other CARES Act Provisions. There may be other CARES Act provisions that your organization may be eligible for, that could impact the timing and extent of your PPP loan forgiveness. For example:

- If you are receiving PPP loan and Economic Injury Disaster Loan (EIDL) proceeds, keep detailed records about the uses of each – we recommend you do not pay any payroll costs with EIDL proceeds if you have received a PPP loan.
- If you received the \$10,000 EIDL emergency grant those funds will reduce the amount of PPP forgiveness you will receive.

8. Create a PPP Loan Forgiveness Model. Using the information you gathered in steps 1-5 above, create a model to estimate what percentage of the PPP loan may not be eligible for forgiveness. Consider the cash flow impact accordingly.

9. Create or Update Cash Flow Models. Critically evaluate your assumptions driving revenue and costs as your organization tries to return to pre-pandemic operations. While scenarios will be unique for each industry, business and possibly type of entity, we are recommending the following PPP loan scenarios should be modeled:

- Deferral of loan payments for 6 months (principal and interest);
- Repayment of 100% of interest accrued during the first six months;
- Forgiveness date is 3, 6, 9 and 12 months after receipt of proceeds;
- Loan is not forgiven and needs to be repaid in 24 months after receipt of proceeds;
- Amortize partial loan forgiveness payments of principal and interest over 18 months leading to maturity; and
- Headcount fluctuation percentages and payroll costs based on the recovery rate of your operations.

10. Try Something New. Organizations may have employees on payroll under the PPP loan that are unable to work in their previous framework due to lockdown regulations. If there are other organizational tasks or processes that can be evaluated and changed during this down-time consider, 'what can be done now that will help the organization later?' and determine if those unable to work in their previous roles could assist with these projects.

11. Expect Change. Remain calm, be prepared, and be patient with the forgiveness process. Remember, it is a new program developed in an emergency situation and timeframe. An economic response this large and of this magnitude has never been undertaken before. New processes are being rolled out quickly to help PPP forgiveness employers take care of their employees. Keep your eyes open for additional programs that might be out there and available for you and your organization.

Please contact the GGG partner or staff member working with you with questions or concerns. Due to remote working conditions, email is likely the best way to contact us.

Thank you,

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