



Clients,

Hope everyone is safe and healthy!! We certainly live in different times these days. But we are all in this together. Our goal at CFOColorado is to help our clients through this most difficult time. And hoping that normalcy returns relatively soon. As we move forward – if we can assist in any manner, please feel free to contact us.

The U.S. Small Business Administration (SBA), in consultation with the Department of the Treasury, released an application form on Friday, May 15 for Paycheck Protection Program (PPP) loan forgiveness along with instructions for completing the form. While the document and instructions help address some administrative questions, they leave some key issues unresolved. The SBA plans to release regulations and guidance soon to assist borrowers as they complete their loan forgiveness applications and instruct lenders on how to handle their responsibilities related to PPP loans. In the meantime – we have the first step in determining how the loan forgiveness process works. See attached loan forgiveness application and SBA link to the form.

<https://www.sba.gov/document/sba-form--paycheck-protection-program-loan-forgiveness-application>

Following are some comments/observations/interpretations related to the form and instructions. This summary is not designed to provide legal advice. Our assumption is that your respective banks will be issuing further guidelines for any business that has a PPP approved through that bank. Ultimately, it is the bank that will be determining loan forgiveness – in conjunction with the SBA – based on the information you provide them through this application.

- It will be the responsibility of the business owner to complete this application following the eight-week loan period. If CFOColorado completes your payroll, reports will be provided that will assist the business owner with the completion of the application. If CFOColorado provides the business owner with monthly bookkeeping and/or accounting services, and you desire assistance in completing the application, please contact Justin as soon as possible. He will assist in the preparation of the application – including upfront work that can reduce the time required at the end of the eight-week period.
- The information provided in this email is a high-level summary – and the application form should be followed in detail to ensure compliance.
- It should be noted that business owners can decide to spend the money in whatever manner they see fit. **However**, to receive loan forgiveness, specific rules need to be followed as laid out in the application form and instructions.
- The covered period represents the eight-week period of the PPP loan. The first day of the covered period must be the same as the PPP loan disbursement date. There is a definition of an alternative payroll covered period that can also be considered.
- At least 75% of the PPP loan proceeds shall be used for payroll costs. Based on information provided in the Federal Register, it has been determined that 75% is an appropriate percentage that will align this element of the program with the loan amount, 75% of which is the equivalent of eight weeks of payroll.
- Eligible nonpayroll costs include covered mortgage obligations, covered rent obligations, and covered utility payments. Agreements need to be in place by February 15, 2020. All 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. These payments should be paid directly out of the business PPP loan account.
- Economic Injury Disaster Loan and Advance (EIDL) amounts must also be reflected in the application and appear to be in addition to the PPP loan amount. It appears EIDL advances do not need to be repaid.



- There are some business owner representations that need to be initialed and signed by the business owner. Please review these carefully. There are significant penalties if the owner knowingly makes false statements which may be punishable by imprisonment and/or fines.

Comments related to the payroll portion of the loan advance

- Borrowers are eligible for forgiveness for the payroll costs paid and payroll costs incurred during the eight-week covered period. Payroll costs are considered paid on the day the paychecks are distributed. Payroll costs are considered incurred on the day that the employee's pay is earned.
- There is some flexibility on the application related to when the payroll is actually paid. Payroll costs incurred but not paid during the covered period are eligible for forgiveness if paid on or before the next regular payroll date.
- There are adjustments to the loan forgiveness amount if (full time equivalents) FTE's are not maintained and/or salary amounts are reduced. Note the salary/hourly wage reduction can be compared to the period from January 1, 2020 to March 31, 2020 if more appropriate than 2019. An FTE exception applies for which the borrower made a good-faith, written offer to rehire an employee which was rejected by the employee. In that case, the FTE reduction does not reduce the loan forgiveness amount. Please note – the Colorado Department of Labor website has a section that indicates an employer should report that the employee was offered an opportunity to return to work – but the employee declined the employment of suitable work.

<https://www.colorado.gov/pacific/cdle/businesses-employers>

- Completion of Schedule A Worksheet and Tables utilized to determine the loan forgiveness amount can be time consuming – and should be prepared for each employee. These worksheets are the basis to determine the correct forgiveness amount for payroll.
- Amounts paid by the borrower for employer contributions for employee health insurance and company contributions to employee retirement plans are in addition to payroll wages and may be forgiven.
- Amounts paid by the employer for state and local taxes (i.e. state unemployment) can also be forgiven.
- Federal employment taxes imposed between February 15 and June 30, 2020 including the employer's share of FICA (social security and Medicare) is excluded in the forgiveness amount.
- For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed \$100,000, as prorated over the eight-week period. SBA guidance allows for the forgiveness of amounts paid to owners. The amount eligible for forgiveness is capped at the lower of \$15,385 (eight-week equivalent of \$100,000/year) or the eight-week equivalent of the owner's applicable compensation in 2019, **whichever is lower**. Dividends/distributions paid to the owner from PPP funds cannot be forgiven as they do not represent W-2 wages.
- Reductions may occur to loan forgiveness if FTE's are not maintained during the covered period. Note there is a FTE reduction safe harbor plan included.

We realize this is confusing and complex. As the loan forgiveness process moves forward, please do not hesitate to call if you have questions. Ultimately it will be your bank that will make the key decisions on loan forgiveness. We will send out additional info as it comes available.

Lonny Haugen
CPA