



HOW TO ENSURE MAXIMUM FORGIVENESS ON PAYCHECK PROTECTION PROGRAM ("PPP") LOANS

Prepared for the Miami Association of Realtors

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May 14, 2020

THE PAYCHECK PROTECTIN PROGRAM (“PPP”) was established under the Coronavirus Aid, Relief and Economic Security (CARES) Act. Its is a U.S. government initiative providing for 100% federally guaranteed loans to small businesses affected by the COVID-19 pandemic.

TOP 5 THINGS TO DO TO ENSURE YOUR PPP LOAN IS FORGIVEN

- The PPP is one of the best resources available to small businesses that have suffered economic hardship because of COVID-19. Eligible businesses, include, among others, sole proprietors, independent contractors and self-employed individuals.
- A PPP loan is attractive to small businesses because lenders will forgive loan amounts used during an eight-week period as long as borrowers use PPP proceeds to cover payroll costs, mortgage interest, rent, and utility costs.
- Although a lot of ambiguity still exists as to the complete forgiveness terms, follow these guidelines to give your business the best chance of having its PPP loan forgiven.

1. KEEP TRACK OF WHEN THE 8-WEEK PERIOD STARTS

- The CARES act states that during an eight-week period (the “covered period”), the sum of certain costs incurred and payments made (discussed below) will be eligible for forgiveness.
- This means that forgiveness amount depends on the borrower’s payroll costs over the eight-week period.
- The clock starts ticking on this eight-week period once your lender makes the first disbursement of the PPP loan.
- Ambiguity still exists as to how lenders will interpret “costs incurred.” For example, does this mean that a borrower cannot pay with PPP proceeds a utility bill that was due before the covered period began? It’s unclear.
- To be on the safe side, borrowers should try and pay with their PPP proceeds all bills and expenses that originate within the covered period.

2. USE AT LEAST 75% OF PPP PROCEEDS ON PAYROLL COSTS

75% of the loan forgiveness amount must be attributed to your company's payroll costs. To make sure you do not violate this rule, you must understand what makes up payroll costs. **Payroll costs include:**

For Employers: Sum of payments of any compensation with respect to employees that is a:

- Salary, wage, commission or similar compensation
- Payment of cash tip or equivalent
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment for group health care coverage and retirement benefits
- Payment of state or local tax assessed on employee compensation

For Sole Proprietors, Independent Contractors and Self-Employed Individuals:

- Sum of any compensation that is a wage, commission or similar compensation (such as income or net earnings from self-employment), that is not more than \$100,000 in one year, as prorated during the covered period of February 15 through June 30, 2020



WHAT'S EXCLUDED IN PAYROLL COSTS?



- 1) compensation of individual employees in excess of annual salary of \$100,000, prorated as necessary;
- 2) qualified sick and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act (“FFCRA”);
- 3) any compensation of an employee whose principal place of residence is outside of the United States;
- 4) federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee’s and employer’s share of FICA and Railroad Retirement Act taxes, and
- 5) income taxes required to be withheld from employees.
- 6) Compensation paid to independent contractors (independent contractors can apply for their own PPP loan)

3. USE NO MORE THAN 25% PROCEEDS ON NON-PAYROLL COSTS



- Only **25%** of the loan amount forgiven can be spent on utilities, rent, and mortgage interest payments.
- Although mortgage interest and rent payments are clear, some people wonder what counts as utilities.
- The CARES Act defines **utilities** as: **electricity, gas, water, transportation, telephone , or internet.** Remember, these services must have begun before February 15, 2020.
- Keep in mind that the **PPP loan terms technically allow a business to spend more than 25% on these categories of expenses. If you do so, however, then be prepared to repay those loan amounts (repayment of loan terms discusses later).**

NOTE: Generally, the PPP loan amount that businesses qualify for is based on their average payroll expenses. However, since sole proprietors and independent contractors (“IC’s”) usually don’t have payroll, their loan is based on 2019 net profit divided by 12, to get a monthly “average” net profit. This number times 2.5 equals your PPP loan amount.

- Because many IC’s do not have deductible expenses for interest, rent, or utilities, their loan forgiveness will be limited to 8 weeks worth of their 2019 net profit (“replacement compensation”).
- Thus, sole proprietors and IC’s can use your PPP loan to replace your compensation (based on your 2019 income).
- They can borrow 2.5 months worth of their 2019 net profit. The amount of “owner compensation replacement” you’re eligible to claim for forgiveness is calculated by multiplying your reported net income in 2019 on your Schedule C by 8 / 52.



- Payroll Costs – (or “owner compensation replacement” for sole proprietors and IC’s)
- Costs related to health care benefits, during periods of paid sick, medical or family leave
- Insurance premiums
- Mortgage interest payments
- Rent payments
- Utility payments - (electricity, gas, water, transportation, telephone or internet access for which service began before February 15, 2020)
- Interest payments on other debt obligations incurred before February 14, 2020



RECAP OF PPP USES:

FORGIVENESS

YOUR LOAN MAY BE FORGIVEN IN PART OR IN WHOLE –
up to 100% with approval

No repayment if the Borrower uses all of the loan proceeds for forgivable purposes and employee compensation levels are maintained.

Note: Not more than 25% of the forgiven amount may be used for non-payroll costs; 75% must be used for payroll costs.

If more than 75% is used for payroll, the forgiveness is for the full amount of the loan. The maximum amount available for loan forgiveness is reached when, during the 8-week post loan funding period, **at least 75% of proceeds are spent on payroll costs and up to 25% are spent on non-payroll costs.**



DISCLAIMER: FAILURE TO PROPERLY DOCUMENT AND DEMONSTRATE THAT THESE FUNDS WERE USED ON THE APPROVED CATEGORIES WILL JEOPARDIZE YOUR FORGIVENESS ELIGIBILITY

4. RE-HIRE LAID OFF EMPLOYEES AND RESTORE PAYROLL LEVELS

LOAN FORGIVENESS WILL BE REDUCED IF:

- Number of Staff: Full-time employee headcount is decreased.
- Level of Payroll: Salaries and wages are decreased by more than 25% for any employee who made less than \$100,000 annualized in 2019.

Re-Hiring: Borrowers have until June 30, 2020 to restore full-time employment and salary levels for any changes made between Feb. 15, 2020 and April 26, 2020.

- If possible, hire employees and restore their wages during that eight-week period.



5. KEEP DETAILED RECORDS OF ALL EXPENSES



- When you apply for loan forgiveness, you will have to provide your lender with certifications and documents verifying the payments that you made during the covered period.
- Since these records are crucial in determining your loan forgiveness amount, be sure to keep accurate and detailed records of all costs incurred and payments made during the covered period.
- For the owner compensation replacement, you just need to provide your 2019 Schedule C to be able to claim the eight weeks of net profit for forgiveness.
- If possible, open a separate bank account or use a separate card to account for all expenses paid with your PPP loan.
- REMEMBER: Failure to provide complete documentation may bar you from being eligible for forgiveness.



WHAT ARE THE LOAN TERMS FOR AMOUNTS NOT FORGIVEN?

KEEP IN MIND THAT YOU WILL HAVE TO REPAY ALL LOAN AMOUNTS NOT FORGIVEN OVER TWO (2) YEARS AT AN INTEREST RATE OF 1%.

BUSINESSES CAN DEFER PAYMENTS FOR SIX MONTHS, BUT INTEREST WILL CONTINUE TO ACCRUE ON THE PPP LOANS DURING THE DEFERRAL PERIOD.

LASTLY, KEEP CHECKING THE SMALL BUSINESS ADMINISTRATION AND THE TREASURY DEPARTMENT WEBSITES AS THEY CONTINUE TO PROVIDE GUIDANCE ON LOAN FORGIVENESS TERMS.



HOW CAN BORROWERS REQUEST LOAN FORGIVENESS?

- Borrowers can submit a request to the lender that is servicing the loan.
- The request must include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments made on eligible mortgage, debt, lease and utility obligations during the eight weeks after receiving the loan.
- Borrowers must certify that the documents are true and that the forgiveness amount was used to keep employees and make eligible mortgage interest, rent and utility payments.
- The lender must make a decision on the forgiveness within sixty (60) days.

ECONOMIC INJURY DISASTER LOAN (EIDL)

EMERGENCY

DETAILS:

- The EIDL was created under the CARES Act to assist businesses who suffered a substantial economic injury from the COVID-19 pandemic.
- It is available to small business owners in all U.S. States, Washington, D.C. and territories.
- **Eligible businesses include:** small business (fewer than 500 employees), sole proprietors, independent contractors, private, non-profit organizations, small agricultural cooperatives, tribal small businesses and ESOPs.
- Businesses must have been in operation by January 31, 2020.
- The loan **provides and advance/emergency grant** of up to \$10,000.

ECONOMIC INJURY DISASTER LOAN (EIDL)

DETAILS CONTINUED:

- The loan and provides small businesses with working capital loans of up to \$2 million that can provide vital economic support to help overcome temporary loss of revenue they are experiencing.
- The loan is intended to assist through the disaster recovery period.
 - *Funds are made available shortly after the application is successfully submitted.*

Eligible USES of the EIDL:

- - Payroll costs
- - Fixed Debts
- - Account payable
- ¹⁵ - Other expenses that cannot be paid because of the disaster's impact

HOW DOES AN EIDL ADVANCE AFFECT FORGIVENESS OF PPP LOANS?

- If you received an EIDL loan between January 31, 2020 and April 23, 2020, you can refinance that as part of your PPP loan.
- If you take out a PPP loan, you must use the loan proceeds to cover different costs (no double-dipping!)
- ***If you receive a loan advance, it will not have to be repaid,*** but you must deduct any advance amounts from any loan forgiveness under a PPP Loan.
- For example, if you secure a PPP loan, and a \$1,000 EIDL grant, the \$1,000 will be subtracted from the forgiveness amount of the PPP.

REMINDER: The PPP created by the CARES Act prohibits borrowers from taking out two loans for the same purpose.

THANK YOU

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