



Montana Nonprofit Association

June 3rd Town Hall:
PPP Loan Forgiveness



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Today's Agenda:

PPP Loan Forgiveness

- Possible (and probable) changes to program.
- What we know today: PPP Forgiveness Process



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Today's
Presenters:

Adam Jespersen

Director of Innovation

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Paycheck Protection Program

CARES Act

- 500 or fewer employees
- Affiliation rule
- Ends on June 30
- 501(c)(3) only

Regulatory

- 2 year maturity
- Loan deferral 6 mos
- 75% / 25% rule

Paycheck Protection Program

Guidance & Rules

- **FAQs** – 48 as of 5/19

Hit refresh: https://www.sba.gov/sites/default/files/2020-05/Paycheck-Protection-Program-Frequently-Asked-Questions_05%2019%2020.pdf

- **Interim Final Rule (4/15)**

- Application and Restrictions

- **Interim Final Rule (5/22)**

- Loan Forgiveness



PPP Flexibility Act (H.R. 7010)

- **Passed US House – 417-1**
- **Not yet introduced in Senate**
 - “I hope and anticipate the Senate will soon take up and pass legislation that just passed the House by an overwhelming vote of 417-1 to further strengthen the Paycheck Protection Program so it continues working for small businesses that need our help.” – Sen. McConnell.

Paycheck Protection Program

CARES Act

- 500 or fewer employees
- Affiliation rule
- Ends on June 30 (8 weeks)
- 501(c)(3) only

Regulatory

- 2 year maturity
- Loan deferral 6 mos
- 75% / 25% rule

PPP Flexibility Act (H.R. 7010)

- Extends to Dec. 31 (24 weeks)
- 5 year maturity
- Loan deferral
- Eases rehire rules
- Creates 60% / 40% rule
- PPP borrowers eligible for payroll deferral

Some Considerations

- **8 weeks vs. 24 weeks:** Move forward now if you have full forgiveness (clean balance sheet, avoid uncertainty, maintain flexibility).
- **60% rule becomes a cliff:** If below 60% payroll expenses, NO forgiveness will be offered.

PPP Loan Forgiveness





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Forgiveness Process

Rules and Process Released last Friday,
May 22, at 10:44 EDT.

Process MAY change with pending
legislation.

Current process is probably only valid for
those orgs who can get full forgiveness
right now.



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Forgiveness Process

1. Borrower submits Loan Forgiveness Application to Lender.
2. Lender reviews and makes decision regarding forgiveness.
3. Lender has 60 days to issue decision to SBA.
4. SBA reviews decision and pays Lender for forgiveness amount no later than 90 days after receiving lender decision.
5. Lender notifies Borrower of SBA decision.



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Please Note:

- While your lender is responsible for processing and evaluating your forgiveness application, they are not responsible to guarantee accuracy of the information and are not liable for calculation mistakes caught by an SBA review.



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From Interim Final Rule:

Providing an accurate calculation of the loan forgiveness amount is the responsibility of the borrower, and the borrower attests to the accuracy of its reported information and calculations on the Loan Forgiveness Application. **Lenders are expected to perform a good-faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning amounts eligible for loan forgiveness.** For example, minimal review of calculations based on a payroll report by a recognized third-party payroll processor would be reasonable. By contrast, if payroll costs are not documented with such recognized sources, more extensive review of calculations and data would be appropriate. The borrower shall not receive forgiveness without submitting all required documentation to the lender .

As the First Interim Final Rule indicates, **lenders may rely on borrower representations. If the lender identifies errors in the borrower's calculation or material lack of substantiation in the borrower's supporting documents, the lender should work with the borrower to remedy the issue.** As stated in paragraph III.3.c of the First Interim Final Rule, the lender does not need to independently verify the borrower's reported information if the borrower submits documentation supporting its request for loan forgiveness and attests that it accurately verified the payments for eligible costs.



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SBA Review:

- SBA has stated that PPP loans under \$2M will be considered made in good faith regarding need. Loans above \$2M will be reviewed by the SBA.
- SBA can review any loan at any time.
- Borrower is required to maintain full PPP documentation for 6 years after forgiveness.



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PPP Loan Forgiveness Application

Consists of:

- PPP Loan Forgiveness Calculation Form
 - The official form, with certifications from borrower.
- PPP Schedule A
 - For calculating Payroll, FTE, and any forgiveness reductions.
- PPP Schedule A Worksheet
 - For calculating forgiveness reductions and Safe Harbor.



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PPP Loan Forgiveness Application

What could impact forgiveness?

- 75%/25% rule
- Less FTE than reference period
- Less compensation/employee than reference period
- EIDL Advance



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PPP Loan Forgiveness Application

Application Steps:

1. Calculate Eligible Payroll Costs
2. Calculate Eligible Nonpayroll Costs
3. Adjust forgiveness amount based on:
 1. Total FTE compared to reference period.
 2. Total compensation/employee compared to reference period
4. Finalize Forgiveness Amount, minus any EIDL Advance.



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PPP Loan Forgiveness Application

Calculating Payroll Costs:

- For 8 weeks (56 days) from either date of disbursement or first day of new payroll cycle after disbursement.
- Includes wages, benefits, commission, bonuses, hazard pay below \$100,000 annualized/employee (broad definition of compensation)
- Use Schedule A Worksheet of Application or submit 3rd party payroll reports.



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Calculating NON-Payroll Costs:

- Electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.
- Eligible expenses are either paid during the covered period or incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period.
- Cannot exceed 25% of total loan amount (FOR NOW).



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Adjusting for FTE:

- “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.”

- Reference Period Options:**
 - February 15, 2019 through June 30, 2019
 - January 1, 2020 through February 29, 2020
 - A consecutive 12-week period between May 1, 2019 and September 15, 2019.

- If not using exact FTE % for part time employees, SBA allows 0.5 FTE as default.

- Use PPP Schedule A Worksheet.



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Adjusting for FTE:

Safe Harbor Provisions:

- The CARES Act expressly allows borrowers to count a formerly laid-off or furloughed employee at the time of loan forgiveness if the employee was (a) laid off or furloughed between February 15 and April 26, 2020, and (b) rehired by June 30, 2020.
- Employees who decline offers of rehire will also be counted as on the payroll for forgiveness purposes. The borrower must have made a good faith, written offer to rehire the employee at the same wages and hours, the employee must have rejected the offer, and the borrower must retain records of the offer and rejection and inform the state unemployment office within 30 days of the rejection.
- Borrowers may still include in their covered period FTE count those employees who are fired for cause, voluntarily resign, or voluntarily request a reduced schedule during the covered period. SBA's rationale is that "borrowers should not be penalized for changes in employee headcount that are the result of employee actions and requests." Employers must maintain records that document the reason that employees are no longer on the payroll.



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Adjusting for Compensation:

- Borrowers will suffer a dollar-for-dollar reduction in loan forgiveness for all employees who earn less than 75 percent of their pre-pandemic wages.

- Reference period for this test is January 1, 2020 – March 31, 2020.

- Exemptions:
 - The borrower will not be subject to a reduction in forgiveness based on salary reductions if (a) the salary reduction occurred between February 15 and April 26, 2020, and (b) the borrower restores the salary (eliminates the reduction) on or before June 30, 2020. Also, reductions in wages due to reduced hours will be treated as a change in FTE status and will not also be counted as a reduction in pay, assuming the employee's wage rate is the same.

- Use PPP Schedule A Worksheet



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EIDL Advance Adjustment:

- If you received an EIDL advance (up to \$10,000) but did not take out a full EIDL loan, the advance amount will be deducted from the forgiveness amount by the SBA.



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Questions?

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