

PPP Loan Forgiveness Application

Presentation

Handout Rev 06-18-20

Slide 4: General Disclaimer

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This presentation is based on our current interpretations of the law, which may change after further SBA, IRS, or other guidance is issued. The information in this presentation may not constitute the most up-to-date information available. We continue to monitor the COVID-19 stimulus regulations, SBA guidelines, and IRS implications, and will be sending out other forms of communication as the situation unfolds.

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Slide 5: Tax & Legal Questions Disclaimer

- **SBDC is prohibited from giving TAX or LEGAL advice.**
- **Any tax-related questions, accounting questions and specific questions about your individual company situation can only be answered with credible authority by your Accountant or Attorney.**

Slide 9:

NO reduction if all proceeds are used for forgivable purposes and employee headcount and compensation levels are maintained.

- PPP amounts provided to you that are used during the 8 or 24 week period from which you fund the following expenses:
 - Payroll costs (min 60%)
 - Amounts paid pursuant to obligations in effect on 02/15/2020 for (max 40%):
 - Mortgage interest
 - Rent
 - Utilities
 - AND Interest Payments on any other debt obligations

Statutory Reductions

- Decreases in number of FTE Employees
- Pay cuts greater than 25% for employees making < \$100K

Slide 10: Covered Period Defined

Covered Period: The Covered Period is either
(1) the 24-week (168-day) period beginning on the PPP Loan Disbursement Date,
or
(2) if the Borrower received its PPP loan before June 5, 2020, the Borrower may elect to use an eight-week (56-day) Covered Period.

For example, if the Borrower is using a 24-week Covered Period and received its PPP loan proceeds on Monday, April 20, the first day of the Covered Period is April 20 and the last day of the Covered Period is Sunday, October 4. In no event may the Covered Period extend beyond December 31, 2020.

Slide 11: Alternate Covered Period

Alternative Payroll Covered Period: For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the 24-week (168-day) period (or for loans received before June 5, 2020 at the election of the borrower, the eight-week (56-day) period) that begins on the first day of their first pay period following their PPP Loan Disbursement Date.

-For example, if the Borrower is using a 24-week Alternative Payroll Covered Period and received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, October 10.

-In no event may the Alternative Payroll Covered Period extend beyond December 31, 2020.

Slide 12: Loan Forgiveness Steps

-You were disbursed a PPP loan:

During the Covered Period (8 or 24) weeks you spend it on specific items (at least 60% of which is payroll related).

After the (8 or 24) weeks, you apply for forgiveness **using SBA Form 3508EZ or 3508 (long version)** with your lender and provide required documentation.

The lender has up to 60 days to respond to your request for forgiveness.

Any balance not forgiven will become a loan at **1% for 2 years (loan prior to 6/5) or 5 years (on or after 6/5/20)**

\$421.02/mo per \$10K (2 year term) or \$170.94/mo per \$10K of Unforgiven Amount (5 year term)

Slide 13: Eligible Payroll Costs for Forgiveness

Eligible payroll costs: Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the 24-week (168-day) or 8-week (56-day) Covered Period (or Alternative Payroll Covered Period) (“payroll costs”).

- Payroll costs are considered paid on the day that paychecks are distributed or the Borrower originates an ACH credit transaction.
- Payroll costs are considered incurred on the day that the employee’s pay is earned.
- 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. Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period).
- For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. Count payroll costs that were both paid and incurred only once.

Slide 14: Allowed Payroll Costs

The CARES Act states that payroll includes:

- Salary, wages, commissions or similar compensation,
- Payment of cash tips or equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips),
- Payment for vacation, parental, family, medical, or sick leave;
- Allowance for dismissal or separation;
- Payment required for the provisions of employee benefits including insurance premiums;
- Payment of any retirement benefit;
- Payment of State or local tax assessed on the compensation of employees; plus For sole proprietors or independent contractors, wages, commission, income, or income from net earnings from self-employment, or similar compensation.

Slide 15: Unallowable Payroll Costs

It does not include:

-The compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period;

- Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee's and employer's share of FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes, and income taxes required to be withheld from employees;

- Any compensation of an employee whose principal place of residence is outside the United States;

- Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act.

- Also note that payments to independent contractors are not covered by payroll.

-Independent contractors should apply for PPP on their own.

Slide 16: Eligible Non-Payroll Costs for Forgiveness

Eligible non-payroll costs: Non-payroll costs eligible for forgiveness consist of:

(a) covered mortgage obligations: payments of mortgage interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020 ("business mortgage interest payments");

(b) covered rent obligations: business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020 ("business rent or lease payments"); and

(c) covered utility payments: business payments for a service for the distribution of electricity, gas, water, telephone, transportation, or internet access for which service began before February 15, 2020 ("business utility payments").

An eligible non-payroll cost must be 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.

Eligible non-payroll costs cannot exceed 40% of the total forgiveness amount.

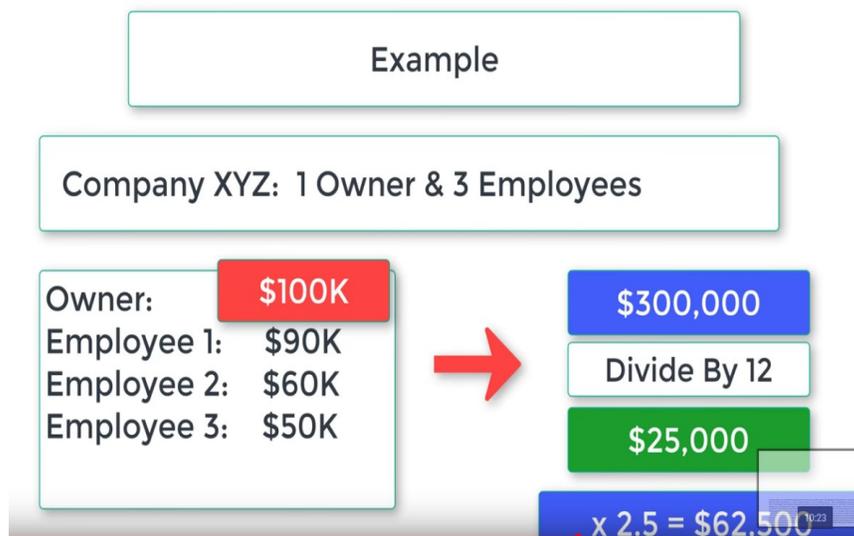
Count non-payroll costs that were both paid and incurred only once.

Slide 17:

Calculating the Maximum Other Costs

- House & Senate Update states no more than 40% of the loan forgiveness amount may be attributable to non-payroll costs.
 - This means that other costs can be up to 66% of payroll costs for the (8 or 24) week period.
- Mathematically will result in the other costs being 40% of the loan forgiveness amount

Slide 18: PPP Loan Size Review



Loan multiplier 2.5: 2 = 8 weeks of Payroll, 0.5 = Other Costs during 8 week Covered Period

Slide 19 - 24: PPP Loan Forgiveness Application (separate handouts)

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

Slide 19: Main Page Header

Slide 20: Form 3508EZ Checklist

Slide 21: General Info (3508EZ & 3508)

Slide 22: 3508EZS Calculation (Line 1 - 8)

Slide 23: 3508 Calculation (Line 1- 11)

Slide 24: Certifications (3508EZ & 3508)

Slice 25: EXAMPLE 1

PPP Loan Received \$200,000

60% of \$200K = \$120K (min Payroll required), 40% of \$200K = \$80K (max Other Costs allowed)

$\$80K/\$120K = 66.66\%$

Actual Payroll costs during the Covered Period after disbursement \$160,000 (which is more than the 60%)

Actual Other costs during Covered Period after disbursement \$100,000 (which is more than 40%)

NOTE: This Assumes no reduction in FTE or individual salaries by more than 25%

Slide 26:

Example 1:		
Payroll/Other Costs Calculation		
1 PPP Loan Amount	\$200,000	
2 Payroll Costs (Covered Period)	\$160,000	
3 Other Costs (Covered Period)	\$100,000	
4 Eligible Other Costs Calculation	\$106,656	66.66% of Payroll Costs
5 Maximum Eligible Other Costs	\$100,000	Lesser of 3 or 4
6 Total Eligible Costs for Forgiveness	\$260,000	Sum of 2 and 5
7 Maximum Forgiveness	\$200,000	Lesser of 1 or 6

Example 2:		
Payroll/Other Costs Calculation		
1 PPP Loan Amount	\$400,000	
2 Payroll Costs (Covered Period)	\$200,000	
3 Other Costs (Covered Period)	\$200,000	
4 Eligible Other Costs Calculation	\$133,320	66.66% of Payroll Costs
5 Maximum Eligible Other Costs	\$133,320	Lesser of 3 or 4
6 Total Eligible Costs for Forgiveness	\$333,320	Sum of 2 and 5
7 Maximum Forgiveness	\$333,320	Lesser of 1 or 6

Slice 28:

Example 3:		
Payroll/Other Costs Calculation		
1 PPP Loan Amount	\$500,000	
2 Payroll Costs (Covered Period)	\$400,000	
3 Other Costs (Covered Period)	\$100,000	
4 Eligible Other Costs Calculation	\$266,640	66.66% of Payroll Costs
5 Maximum Eligible Other Costs	\$100,000	Lesser of 3 or 4
6 Total Eligible Costs for Forgiveness	\$500,000	Sum of 2 and 5
7 Maximum Forgiveness	\$500,000	Lesser of 1 or 6

Slide 29: Statutory Reductions Based on FTE Reference Period

Reduction in Number of FTEs

- Numerator = Average FTEs, calculated by pay period, 8 or 24-week period post funding
- Denominator Option 1 = Average FTEs, calculated by pay period, by month, from 02/15/2019 - 06/30/2019
- Denominator Option 2 = Average FTEs, calculated by pay period, by month, from 01/01/2020 - 02/29/2020.

Reduction in Number of FTEs (Exceptions):

1. If FTE count is restored by end of Covered Period or 12/31/20
 2. If Employee(s) refuse to return to work (must be documented)
 3. If Employer could replace skilled employee(s)
- 3. Business does not return to Pre-Pandemic Level (Pre 2/15/20 & post Covered Period business financials must be kept on file)**

Slide 30: Reference Period FTE

Values for PPP Loan Forgiveness Schedule A Line 11						
		Option 1	11.9	2/15/2019-6/30/2019		
		Option 2	12.9	01/01/2020 – 2/29/2020		
		Lesser of 1 or 2	11.9	2/15/2019-6/30/2019		
			Average FTE			Average FTE
	40 Hrs = Full Time		11.9			12.9
	Full Time	Part Time Hrs	FTE	Full Time	Part Time Hrs	FTE
Pay Period	2/15/19-6/30/19	2/15/19-6/30/19	2/15/19-6/30/19	1/1/20-2/29/20	1/1/20-2/29/20	1/1/20-2/29/20
1	10	75	11.9	11	75	12.9
2	10	75	11.9	11	75	12.9
3	10	75	11.9	0	0	
4	10	75	11.9	0	0	
5	0	0		0	0	
6	0	0		0	0	
7	0	0		0	0	
8	0	0		0	0	
9	0	0		0	0	
10	0	0		0	0	
11	0	0		0	0	
12	0	0		0	0	
13	0	0		0	0	
14	0	0		0	0	
15	0	0		0	0	
16	0	0		0	0	
17	0	0		0	0	
18	0	0		0	0	

Slide 31 Use the data you already have – FTE Base

Calculate the average FTEs for

Option 1 and Option 2:

- Option 1: 02/15/2020 – 06/30/2019
- Option 2: 01/01/2020 – 02/29/2020

- Forecast covered period (from date when loan was funded 8 or 24 weeks)
- Estimate the potential reduction based on any reductions on average FTEs

Slide 32: Here is how Full Time Employees are Counted

Full time employees that work 40 hours per week in any month are counted as one full time employee.

PLUS:

Part time employees are calculated by taking the hours worked by all part-time employees in a week and dividing that amount by 40.

(Example: 140 part time hrs/40 = 3.5 FTE)

NOTE: Seasonal employees aren't counted in the calculation for those working up to 120 days in a year.

OPTION: Part Time = 0.5 FTE & Full Time = 1.0 FTE

Slide 33:

Example 4:

1) Average FTEs - 8-Week Covered Period	200	
2) <u>Option 1</u> - Average FTEs – 02/15/2019 – 06/30/2019	225	
3) <u>Option 2</u> - Average FTEs – 01/1/2020 – 02/29/2020	210	
4) Choosing Best Option – Calculate Headcount Reduction Percentage	95%	<i>200 / 210</i>

Slide 34: Forgiveness Reduction Based on Reduction of Salary

- Reduced by any reduction in salary of an employee that is in excess of 25% of the total salary of the employee during the most recent full quarter during which the employee was employed.
 - For most employees Q1-2020 (1/1/20- 3/31/20)
 - Determined by employee
 - Applies to any employees compensated less than an annualized rate of \$100K in wages during any single pay period in 2019

Slide 35: Forgiveness Reduction Based on Reduction of Salary

Additional Dates to Determine Salary Reduction and Safe Harbor.

Salary/Hourly Wages through 2/15/20

Salary/Hourly Wages 2/15 to 4/26/20

Salary/Hourly Wages at end of Covered Period but not later than 12/31/20

Slide 36: Use the data you already have - Salary Reduction

Schedule out Q1-2020 base wages and salaries by employee, not exceeding \$100K

- Use base wages or salaries only
- This calculation only includes base wages and salaries
- Calculate any projected pay reductions during Covered Period or Alternate Covered Period

Slide 37:

Example 5:

1) Maximum Forgiveness	\$500,000	
2) Reduction % from Headcount Reduction	95%	
3) Reduction in Salary in Excess of 25%	\$75,000	
4) Final Forgiveness Amount	\$400,000	$(500,000 * .95) - 75,000$

Slide 38: Sample Salary Reduction Worksheet (not in SBA Form)

Annual Salary Calculation:

Employee's Name	Employee Identifier	Max Reduction		25%	Step 1	2a	2b	2c	Step 2 & 3 Calculations	Net Salary Reduction
		1b	1a	1c						
		Cash Compensation 1/1/20 - 3/31/20	Cash Compensations Covered Period	% of 1b Salary	Salary Reduction	Annual Salary 2/15/20	Avg Annual Salary 2/15/20 to 4/26/20	Avg Annual Salary 6/30/20		
1 Jones		\$36,000	\$36,000	100%	\$0	\$36,000	\$36,000	\$36,000	\$0	\$0
2 Smith		\$48,000	\$48,000	100%	\$0	\$48,000	\$48,000	\$48,000	\$0	\$0
3 Michael		\$60,000	\$40,000	67%	\$5,000	\$60,000	\$60,000	\$40,000	\$5,000	\$769
4 White		\$66,000	\$66,000	100%	\$0	\$66,000	\$66,000	\$66,000	\$0	\$0
5 Green		\$72,000	\$72,000	100%	\$0	\$72,000	\$72,000	\$72,000	\$0	\$0
6 Garcia		\$78,000	\$78,000	100%	\$0	\$78,000	\$78,000	\$78,000	\$0	\$0
7		\$0	\$0	0%	\$0	\$0	\$0	\$0	\$0	\$0
8		\$0	\$0	0%	\$0	\$0	\$0	\$0	\$0	\$0
9		\$0	\$0	0%	\$0	\$0	\$0	\$0	\$0	\$0
10		\$0	\$0	0%	\$0	\$0	\$0	\$0	\$0	\$0
					\$0					\$0
Totals:		\$360,000	\$340,000		\$5,000	\$360,000	\$360,000	\$340,000	\$5,000	\$769

Slide 39: Sample Hourly Wage Reduction Worksheet (not in SBA Form)

Employee's Name	Employee Identifier	Max Reduction		25%	Step 1	2a	2b	2c	3b	3c	
		1b	1a	1c							
		Avg Hourly Wage 1/1/20 - 3/31/20	Hourly Wage Covered Period	% of 1b Salary	Hourly Wage Reduction	Hourly Wage 2/15/20	Avg Hourly Wage 2/15/20 to 4/26/20	Avg Hourly Wage 6/30/20	Step 2 & 3 Calculations	Hrs/week 1/1/20 - 3/31/20	Hourly Wage Reduction
1 Gallegos		\$20.00	\$20.00	100%	\$0.00	\$20.00	\$20.00	\$20.00	\$0.00	40.0	\$0.00
2 Domingues		\$35.00	\$35.00	100%	\$0.00	\$35.00	\$35.00	\$35.00	\$0.00	40.0	\$0.00
3 Jackson		\$50.00	\$35.00	70%	\$2.50	\$50.00	\$50.00	\$50.00	\$2.50	40.0	\$800.00
4 Black		\$30.00	\$30.00	100%	\$0.00	\$30.00	\$30.00	\$30.00	\$0.00	30.0	\$0.00
5 Svenson		\$25.00	\$25.00	100%	\$0.00	\$25.00	\$25.00	\$25.00	\$0.00	25.0	\$0.00
6 Vigil		\$20.00	\$20.00	100%	\$0.00	\$20.00	\$20.00	\$20.00	\$0.00	20.0	\$0.00
7		\$0.00	\$0.00	0%	\$0.00	\$0.00	\$10.00	\$11.00	\$0.00	0.0	\$0.00
8		\$0.00	\$0.00	0%	\$0.00	\$0.00	\$10.00	\$11.00	\$0.00	0.0	\$0.00
9		\$0.00	\$0.00	0%	\$0.00	\$0.00	\$10.00	\$11.00	\$0.00	0.0	\$0.00
10		\$0.00	\$0.00	0%	\$0.00	\$0.00	\$10.00	\$11.00	\$0.00	0.0	\$0.00
					\$0.00						\$0.00
Totals:		\$180.00	\$165.00		\$2.50	\$180.00	\$220.00	\$224.00	\$2.50		\$800.00

Slide 40: Avoiding Statutory Reductions

- **Rehire employees** that were furloughed, terminated, etc. between 02/15/20 and 04/26/20 (Rehire Eligibility Period)
 - Track FTE increase from rehired employees from 04/26/20 – End of Covered Period but no later than 12/31/20.
 - Rehired employees are treated as being employed for entire period, eliminating the impact of averaging.
 - Documented Employees refusal to return
 - Documented inability to find replacement Employees (skill levels)
 - Documented Business Level reduced need for FTE compared to Pre 2/15/20 level (based on financial records)
- **Employer can restore reductions in salary/wages**
 - Employees who may have been reduced greater than 25% can be put back to less than 25% reduction.

Slide 41: How does Rehiring Work?

Question: Will a borrower's PPP loan forgiveness amount be reduced if the borrower laid off an employee, offered to REHIRE the same employee, but the employee declined the offer?

- Answer:** No. Employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) are exempted from the CARES Act's loan forgiveness reduction calculation.
- To qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower.
 - Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

Slide 42: Payroll and Forgiveness For the Self Employed

- Self-employed individuals without any employees who file IRS Form 1040 Schedule C calculate payroll differently.
 - Use the net profit for the business from 2019 as reported on line 31 of Schedule C.
- Using up to \$100,000 of net profit, divide that amount by 12 to get the average monthly net profit, then multiply by 2.5 to get the maximum loan amount. (Note you do not have to file your 2019 tax return before you apply, but the SBA says you must complete it.)

Slide 43: Schedule C Line 31

Slide 44: Payroll and Forgiveness For the Self Employed without Employees (Use SBA Form 3508EZ)

Owner's compensation portion of the loan here is limited when it comes to forgiveness:

"It is appropriate to limit the forgiveness of *owner compensation replacement* for individuals with self-employment income who file a Schedule C to *eight weeks' worth (Line 31 divided by 52 times 8) of 2019 net profit...*

Example: 2019 Line 31 = \$52,000/52=\$1000*8 = \$8,000

This is because many self-employed individuals have few of the overhead expenses that qualify for forgiveness under the Act.

For example, many such individuals operate out of either their homes, vehicles, or sheds and thus do not incur qualifying mortgage interest, rent, or utility payments. As a result, most of their receipts will constitute net income."

Slide 45: Payroll and Forgiveness For the Self Employed with Employees (Use SBA Form 3508EZ if checklist box 2 or 3 are checked otherwise must use 3508)

For forgiveness, that same document provides the following guidance:

"The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered period on:

Payroll costs including salary, wages, and tips, up to \$100,000 of annualized pay per employee (for eight weeks, a maximum of \$15,385 per individual),

As well as covered benefits for employees (***but not owners***), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums);

Slide 46: Payroll and Forgiveness For the Self Employed with Employees

Owner compensation replacement, calculated based on 2019 net profit ... with forgiveness of such amounts limited to eight weeks' worth (8/52) of 2019 net profit,

- But excluding any qualified sick leave equivalent amount for which a credit is claimed under section 7002 of the Families First Coronavirus Response Act (FFCRA) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA;

Slide 47: Other Costs and Forgiveness For the Self Employed

- - Payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);
- Rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments); and
- Utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).

Slide 48:

You will apply through the lender who gave you your PPP loan.

• Banks received Forgiveness Regulations and the Application Form on 6/16/20.

- Submitting an application with clean and comprehensible supporting documentation is going to move your forgiveness process along quicker.
- Provide the bank with your loan forgiveness calculation and supporting documentation for your calculation.

Slide 49: Documentation Requirements

Documents that Each Borrower Must Submit with its PPP Loan

Forgiveness Application:

- **PPP Loan Forgiveness Calculation Form (From 3508EZ or 3508)**
- **PPP Schedule A (Form 3508 only)**

Payroll: Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period consisting of each of the following:

- a. Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- b. 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:
 - 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.
- c. 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 (PPP Schedule A, lines (6) and (7)).

Slide 50: Documentation Requirements

Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application (Form 3508 ONLY cont'd):

FTE: Documentation showing (at the election of the Borrower):

- a. the average number of FTE employees on payroll per week employed by the Borrower between February 15, 2019 and June 30, 2019; (Option 1)
- b. the average number of FTE employees on payroll per week employed by the Borrower between January 1, 2020 and February 29, 2020; (Option 2) or
- c. in the case of a seasonal employer, the average number of FTE employees on payroll per week employed by the Borrower between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive 12-week period between May 1, 2019 and September 15, 2019.

The selected time period must be the same time period selected for purposes of completing PPP Schedule A, line 11.

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.

Slide 51: Documentation Requirements

Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application (Form 3508EZ & 3508 cont'd):

Non-payroll: Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- a. Business mortgage interest payments: 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.
- b. Business rent or lease payments: 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.
- c. Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments

Slide 52: Documentation Requirements

Documents that Each Borrower Must Maintain but is Not Required to Submit (Form 3508EZ):

- Documentation supporting the certification that annual salaries or hourly wages were not reduced by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period relative to the period between January 1, 2020 and March 31, 2020. This documentation must include payroll records that separately list each employee and show the amounts paid to each employee during the period between January 1, 2020 and March 31, 2020, and the amounts paid to each employee during the Covered Period or Alternative Payroll Covered Period.
- Documentation regarding any employee job offers and refusals, refusals to accept restoration of reductions in hours, firings for cause, voluntary resignations, written requests by any employee for reductions in work schedule, and any inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020.
- Documentation supporting the certification, if applicable, that the Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period (other than any reductions that arose from an inability to rehire individuals who were employees on February 15, 2020, if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020). This documentation must include payroll records that separately list each employee and show the amounts paid to each employee between January 1, 2020 and the end of the Covered Period.

Slide 53: Documentation Requirements

Documents that Each Borrower Must Maintain but is Not Required to Submit (Form 3508EZ):

- Documentation supporting the certification, if applicable, that the Borrower was unable to operate between February 15, 2020 and the end of the Covered Period at the same level of business activity as before February 15, 2020 due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

This documentation must include copies of the applicable requirements for each borrower location and relevant borrower financial records.

- All records relating to the Borrower's PPP loan, including documentation submitted with its PPP loan application, documentation supporting the Borrower's certifications as to the necessity of the loan request and its eligibility for a PPP loan, documentation necessary to support the Borrower's loan forgiveness application, and documentation demonstrating the Borrower's material compliance with PPP requirements.

- The Borrower must retain all such 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.

Slide 54: Documentation Requirements

Documents that Each Borrower Must Maintain but is Not Required to Submit (Form 3508):

PPP Schedule A Worksheet or its equivalent and the following:

a. Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 1, including the "Salary/Hourly Wage Reduction" calculation, if necessary.

b. Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 2; specifically, that each listed employee received during any single pay period in 2019 compensation at an annualized rate of more than \$100,000.

c. Documentation regarding any employee job offers and refusals, refusals to accept restoration of reductions in hours, firings for cause, voluntary resignations, written requests by any employee for reductions in work schedule, and any inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020.

Slide 55: Documentation Requirements

Documents that Each Borrower Must Maintain but is Not Required to Submit (Form 3508 cont'd):

PPP Schedule A Worksheet or its equivalent and the following:

d. Documentation supporting the certification, if applicable, that the Borrower was unable to operate between February 15, 2020, and the end of the Covered Period at the same level of business activity as before February 15, 2020 due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, etc.. **This documentation must include copies of the applicable requirements for each borrower location and relevant borrower financial records.**

e. Documentation supporting the PPP Schedule A Worksheet “FTE Reduction Safe Harbor 2.”

- All records relating to the Borrower’s PPP loan, including documentation submitted with its PPP loan application, documentation supporting the Borrower’s certifications as to the necessity of the loan request and its eligibility for a PPP loan, documentation necessary to support the Borrower’s loan forgiveness application, and documentation demonstrating the Borrower’s material compliance with PPP requirements.

- The Borrower must retain all such 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.

Slide 56: Forgiveness Application Documentation Self Employed

In the guidance for the self employed, the SBA states:

“The 2019 Form 1040 Schedule C that was provided at the time of the PPP loan application must be used to determine the amount of net profit allocated to the owner for the eight-week covered period. ...

(For) purposes of loan forgiveness it is appropriate to require self-employed individuals to rely on the 2019 Form 1040 Schedule C to determine the amount of net profit allocated to the owner during the covered period.”

Slide 57: What if I don't Get it All Forgiven?

- Any balance remaining becomes a loan with a 1% interest rate and a 2 year or minimum five-year repayment period (before 6/5 vs after 6/5)

- Payment must begin no later than 10 months from the end of the Covered Period or 12/31/20 whichever is earlier.

- Interest on the unforgiven balance is accrued from that date (though it does not have to be paid until deferred payments begin).

Slide 58: Latest SBA Guidance on Loan Deferment Period (6/5/20)

- Your lender must notify you of remittance by SBA of the loan forgiveness amount (or notify you that SBA determined that no loan forgiveness is allowed) and the date your first payment is due.

- Interest continues to accrue during the deferment period.

- If you do not submit to your lender a loan forgiveness application within 10 months after the end of your loan forgiveness covered period, you must begin paying principal and interest after that period.

- For example, if a borrower's PPP loan is disbursed on June 25, 2020, the 24-week period ends on December 10, 2020. If the borrower does not submit a loan forgiveness application to its lender by October 10, **2021**, the borrower must begin making payments on or after October 10, **2021**.

Slide 59: Fund Tracking (Recommendation)

- Separate bank account

- Separate balance sheet and income statement accounts

- Tracking payments with loan proceeds for

- Payroll costs

- Other costs

Slide 60:

EIDL vs PPP

Unemployment (PUA) vs PPP

Slide 61: EIDL vs PPP

Can get BOTH EIDL & PPP

Economic Injury Disaster Loan (EIDL): Loans through the SBA up to \$2M, 30 year term, 3.75% interest plus up to \$10K Grant. CARES Act Authorized.

- Cost \$45.31/mo per \$10K of Loan (3.75% over 30 years)

- If you USE EIDL for Payroll reduces forgiveness of PPP by amount used for Payroll

- Can roll EIDL into PPP.

- Amount of Advance Grant (up to \$10K) reduces forgiveness of PPP by amount of Advance Grant (This is required information on Application)

Paycheck Protection Program (PPP): SBA loan program through Banks, to protect jobs & maintain payroll, up to \$10M, 2-year or 5-year term, 1% interest with a forgiveness provision if funds used for Covered Period (8 or 24 weeks) of payroll plus other allowed costs. CARES Act Authorized.

- Cost \$421.02/mo (2year) or \$170.94/mo (5year)per \$10K of Unforgiven

Slide 62: EIDL vs PPP (Revised 6/5/20)

Refinancing EIDL into PPP (SBA Guidance 6/5/20)

If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan.

If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan.

If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan.

Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan.

Slide 63: PUA vs PPP

NM PUA eligibility:

Self-Employed, Independent Contractors, Sole Proprietors, One Person LLCs and GIG Economy Workers (CARES ACT).

Are Eligible to receive PUA retroactive to 3/29/20 through 7/31/20

CAUTION: If you draw PUA you are not eligible for PPP
Any Employees drawing PUA do not count in FTE for PPP

NM Workforce Solutions Notice:

ANNOUNCEMENT: The application for Pandemic Unemployment Assistance (PUA) will be available on 4/26/2020. Self-employed, independent contractors, and gig economy workers should begin the process now by applying for regular UI benefits. More info in FAQs at <http://www.dws.state.nm.us/COVID-19-Info>

Slide 64:

FREQUENTLY ASKED QUESTIONS

Slide 65:

FAQ 1: Are payroll and other costs paid with forgiven PPP proceeds deductible?

The CARES Act states that amounts forgiven on a PPP loan are excluded from gross income.

However, IRS code does not allow a deduction for expenses “allocable” to tax-exempt income.

This would be considered “double dipping.”

Additional guidance is a must!

Slide 66:

FAQ 2: My business is not an essential business, so can I use my PPP proceeds once shelter-in-place orders are lifted?

Yes. The 8-week period has been extended to 24 weeks and begins on the date the PPP funds are received.

Slide 67:

FAQ 3: My business leases space from an entity I owe personally. Are these lease payments allowable costs under PPP?

Yes. The CARES Act did not distinguish between third party rentals and self-rentals.

Expect SBA to provide safeguards or additional guidance to ensure rents do not increase during the 8-week period.

Slide 68:

FAQ 4: If I have employees voluntarily leave the company, will that impact my FTE calculation?

Yes. This would be considered a reduction in FTE.

This is why forecasting is a must to see if you have any room in your FTE calculation for voluntary departures.

Also, consider replacing the employee before the end of Covered Period but no later than 12/31/2020.

See SBA Rules on Form 3508 (6/12/20) for the new Safe Harbor calculations (Rehire refusal, Unable to replace Skilled Employees & Business Level before 2/15/20)

Slide 69:

FAQ 5: I'm using some independent contractors (1099). Can I convert them to W-2 employees?

We would caution you taking an independent contractor (IC) and converting them to an employee without a significant change in the relationship.

Slide 70:

FAQ 6: I am concerned my loan will not be 100% forgivable.

Can I repay it?

Yes, you can repay the PPP loan without a prepayment penalty.

However you will still owe 1% interest on the unforgiven amount from funding date to pay-off

Any amounts that are not forgiven convert to a loan at 1% interest rate **for 2 years (loan prior to 6/5) or 5 years (on or after 6/5/20)**

Slide 71: FAQ 7: Question: How will SBA review borrowers' required good-faith certification concerning the necessity of their loan request?

When submitting a PPP application, all borrowers must certify in good faith that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” SBA, in consultation with the Department of the Treasury, has determined that ... 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.

-Importantly, borrowers with loans greater than \$2 million that do not satisfy this safe harbor may still have an adequate basis for making the required good-faith certification, based on their individual circumstances in light of the language of the certification and SBA guidance.

- If SBA determines in the course of its review that a borrower lacked an adequate basis for the required certification concerning the necessity of the loan request, SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness. If the borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies.

Slide 72: What You Can Do NOW (3 Actions)

Carefully document how you spend your PPP loan proceeds. This is no time for sloppy record-keeping.

Make sure you keep this documentation where you can access it when you apply for forgiveness, as well as in the future if the government decides to audit those who received funding under this program.

Slide 73: What You Can Do NOW (3 Actions)

Consult your tax, legal or financial adviser If you have any questions about whether and how to qualify for forgiveness, get professional advice.

- Many CPAs and attorneys have questions about these issues too.

- This program relies largely on self-certification from borrowers, so documenting your efforts to get assistance from an advisor who works for you may be helpful if questions arise later.

- Keep an eye out for additional guidance. Hopefully the SBA will further clarify these issues.

We'll do our best to update this presentation as that information becomes available, and you can subscribe to SBA emails for more information as well.

Slide 74: What You Can Do NOW (3 Actions)

Contact your elected officials. PPP is part of the SBA program which is a federal program.

Every Senator and Representative in Washington has staff members whose jobs are to assist with constituent problems with federal programs.

Let them know the specific issues you and your advisors are grappling with and ask for help. It's imperative they understand the areas in which small business owners need guidance.

Slide 75 - 76: Example Time Lines



Slide 77: Download Documents Page
www.nmsbdc.org/workshop-and-events.aspx

Slide 78: Contact Information

SBA: Website: sba.gov
Call: (800) 659 - 2955
Email: *DisasterCustomerService@sba.gov*

SBA NM: Website: sba.gov/nm
Call: (505)-248-8225
Email: *ivan.corrales@sba.gov*

SBDC: Website: www.nmsbdc.org
Call: (505) 428 - 1362 or (800) 281-7232
Email: *info@nmsbdc.org*