

# **Paycheck Protection Program: Forgiveness**

This presentation is for general informational purposes only and is not legal advice. Viewers should consult their attorney, accountant, lender, and payroll provider to make determinations regarding their specific circumstances and to ensure compliance with all applicable laws and regulations.

# PPP Forgiveness

## What is the Paycheck Protection Program?

- The Paycheck Protection Program ("PPP") is a forgivable loan program that is administered by the Small Business Administration and delivered through financial institutions.
- Congress initially authorized \$349 Billion in PPP loans that we learned were exhausted on April 16, 2020. Congress subsequently authorized \$310 Billion in additional PPP loans on April 23, 2020.
- Applications will be accepted through June 30, 2020 or the earlier exhaustion of available funds.

# PPP Forgiveness

**Why is it  
important how  
you use and  
track the use  
of PPP funds?**

- Applicants must make several good faith certifications, including the following:
  - “I ... certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects.”
  - “The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.”

# PPP Forgiveness

## The five main questions

1. What are eligible expenses?
2. How is loan forgiveness determined?
3. How should I track my expenses?
4. How should I track employee-related considerations?
5. What records will I likely need for the forgiveness application?

# PPP Forgiveness

**What are  
eligible  
expenses?**

- PPP loan funds MAY be used for the following allowable expenses:
  - Payroll costs;
  - Interest on Mortgage obligations incurred prior to Feb. 15, 2020;
  - Rent under lease agreements in force before Feb. 15, 2020;
  - Utilities on service agreements dated before Feb. 15, 2020;
  - Refinancing an Emergency Injury Disaster Loan; or
  - Interest payments on other debt obligations that were incurred before February 15, 2020.

# PPP Forgiveness

## What are eligible expenses?

- BUT of the allowable expenses shown on the previous slide, the ONLY costs eligible for forgiveness ("eligible expenses") include:
  - Payroll costs;
  - Interest on Mortgage obligations incurred prior to Feb. 15, 2020;
  - Rent under lease agreements in force before Feb. 15, 2020;
  - Utilities on service agreements dated before Feb. 15, 2020; and
  - Refinancing an Emergency Injury Disaster Loan.
- Excludes interest payments on other debt obligations that were incurred before February 15, 2020.

# PPP Forgiveness

## How is loan forgiveness determined?

- Borrowers must apply to their lenders for forgiveness.
- Forgiveness is determined based on what portion of the loan was used for eligible expenses.
- Forgiveness is reduced proportionally if, during the 8 week period:
  - The borrower uses loan proceeds on non-eligible expenses;
  - The borrower uses EIDL proceeds and PPP proceeds for the same purposes;
  - More than 25% of the total loan amount is used for purposes other than payroll costs;
  - Average monthly FTE headcount declines; or
  - Employee salaries and wages decrease by more than 25% (for employees paid less than \$100,000).
- Borrowers have until June 30, 2020 to restore their FTE and salary levels for any changes made between February 15, 2020 and April 26, 2020.

# PPP Forgiveness

**How should I  
track my  
expenses?**

- In order to track eligible expenses:
  - Create a segregated bank account for loan funds.
  - Pay eligible expenses directly from the segregated bank account.
  - Transfer funds directly from segregated bank account to other accounts in amounts directly traceable to eligible expenses (i.e. payroll account transfers).
  - Create a worksheet that documents the payment and type of eligible expenses and that accumulates total dollars spent to track compliance with 75% requirement.
  - Maintain a file of proof of eligible expenses (invoices, payroll journals, etc).
  - Consider flagging expenses in accounting system to allow for report creation.



# PPP Forgiveness

## How should I track employee-related considerations?

- FTE Headcount:
  - Calculate pre-loan headcount using the lesser of:
    - the average number of FTEs per month employed by the organization during the period from Feb. 15, 2019 through June 30, 2019; OR
    - the average number of FTEs per month employed by the organization during the period from Jan. 1, 2020 through Feb. 29, 2020.
  - Monitor headcount during 8 weeks after loan is received.
- Employee Wages:
  - Calculate pre-loan employee wages using the most recent full quarter during which the employee was employed before Feb. 15, 2020
  - Monitor employee wages during 8 weeks after loan is received.

# PPP Forgiveness

**What records  
will I likely  
need for the  
forgiveness  
application?**

- You must apply for forgiveness from your lender. While each lender may vary, generally, you should be able to provide:
  - Documentation verifying employee counts and pay rates during covered period;
  - Payroll tax filings;
  - State income, payroll and unemployment insurance filings; and
  - Cancelled checks, payment receipts and/or account transcripts or other documents verifying payments on:
    - Covered mortgage obligations,
    - Covered lease obligations, and
    - Covered utility payments.

# PPP Forgiveness

**What if I need help?**

- Applicants should work closely with their lender, accountant, payroll provider, and attorney to ensure that they use and track their use of PPP loan proceeds in order to be eligible for maximum loan forgiveness.
- Because every organization's situation is unique it is important that you seek appropriate advice before taking or refraining from taking any action as a result of this presentation.



Jonathan Murphy  
Partner, Fortif Law Partners, LLC  
205-730-7130  
[jonathan@fortif.com](mailto:jonathan@fortif.com)