

Paycheck Protection Program (PPP) and

Economic Impact Disaster Loan Advance (EIDL Advance)

Frequently Asked Questions (FAQs)

Note: The information in this document is not legal advice and does not create an attorney-client relationship.

The information in this document is current as of **June 16, 2020**. If the answers change as the SBA releases additional guidance or rules, this document will be updated as soon as possible with a new "current" date.

| Question | Answer |
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| An Overview of PPP | |
| 1 What is the PPP? | The Payroll Protection Program is a loan program regulated by the Small Business Administration (SBA), a federal government agency. If you comply with the requirements of the program, all or part of the loan can be forgiven, meaning you do not have to pay it back. The SBA makes rules and regulations for how you have to use the money in this program. This particular program requires the borrower to apply at a local lender. |
| 2 What are the terms of my PPP loan? | If you received your PPP loan on or after 6/5/20, you have five years to pay back your loan at a 1% interest rate. If you received your PPP loan before 6/5/20, you have two years to pay back your loan at a 1% interest rate. You may ask your lending institution to increase your repayment term to five years, but they are not required to change the term. In addition, some or all of your PPP loan may be forgiven -- meaning that you will not have to pay it back -- if you use the funds according to the rules. |
| 3 What do I need to do to get my PPP loan forgiven? | In order to qualify for forgiveness, you will need to spend all of your PPP funds within the covered period (See FAQ #12-18) on covered payroll expenses (See FAQ #19-29) and covered non-payroll expenses (See FAQ #35-40) in accordance with the 60% Rule (See FAQ #41-44). In addition, you will have to maintain staffing levels and pay levels in accordance with the Headcount/FTE rule (See FAQ #45-61). During your covered period, you will have to properly document your spending (See FAQ #9-11). Finally, you will have to submit your forgiveness application (See FAQ #6-11). If you received an EIDL advance in addition to your PPP Loan, all of that advance money must be repaid at your PPP terms (See FAQ #62-66). |

| Applying for a PPP Loan | |
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| 5 | <p>I received documents from my bank to sign for my PPP loan. How long do I have to sign them?</p> <p>You have twenty (20) days to sign your loan documents or your loan will be cancelled. A PPP loan must be disbursed within 10 days from the date that the SBA approves the loan. However, if you do not sign your loan documents timely, there could be a delay in the disbursement of the loan.</p> |
| Applying for PPP Loan Forgiveness | |
| 6 | <p>What does the Application for Forgiveness look like?</p> <p>The SBA's Application for Loan Forgiveness and the EZ Application for Loan Forgiveness are here, under "Loan Forgiveness": https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program. These new versions of the application, published on 6/16/2020, have separately-linked instruction sheets that you will need in order to complete whichever form is applicable to you.</p> |
| 7 | <p>How long will I have to apply for forgiveness?</p> <p>You will have 10 months from the end of your covered period (See FAQ #12-18) to apply for forgiveness. You will have to start re-paying your loan if you fail to apply for forgiveness within this time frame.</p> |
| 8 | <p>How long will it take for my forgiveness request to be processed?</p> <p>Your lender has 60 days to review and determine your forgiveness amount, if any. Your lender will send that information to the Small Business Administration (SBA), and the SBA has 90 days to review and determine your forgiveness amount, if any. Your lender is responsible for notifying the borrower (you!) if you are eligible for forgiveness, and if so, for what amount. Interest will continue to accrue during this time. Your loan payment is deferred until the date that your loan forgiveness is remitted from the SBA to your lender.</p> |
| Documenting Your Spending | |
| 9 | <p>What should I do with the PPP funds once I receive them?</p> <p>Open a separate bank account for that money. This will allow you to keep that money separate from other money coming in from tuition or from other grants or loans. This will also help you to document how you spent the PPP money in order to have the loan forgiven. If you use automatic withdrawals from your regular business account to pay PPP-eligible expenses, you can continue to do so and then transfer money out of your PPP account into your main account to cover the eligible expense; just be sure to document!</p> |

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| 10 What spending should I document? | Document every bill or invoice or request for funds that comes in to your center and every expenditure that goes out for the entire covered period (See FAQ #12-18). If you had a non-payroll expense or payroll expense that was incurred in your covered period but you paid it on the very next billing cycle or payroll cycle, you must keep that documentation as well. You will need these documents when you apply for forgiveness to prove the amounts that you spent on qualifying expenses. |
| 11 What specific documents must I have to apply for loan forgiveness? | You can find the full answer to this question: On the 6/16/20 Application for Forgiveness Instructions, page 6 & 7: https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20Instructions%20%28Revised%206.16.2020%29-508.pdf ; On the EZ Application for Loan Forgiveness, see page 4 of the Instructions: https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20Instructions%20%28Revised%206.16.2020%29-508.pdf . |
| The Covered Time Period | |
| 12 Is there a time period in which I must use the PPP funds? | Yes. Only amounts that you paid or incurred within the "covered period" qualify for forgiveness (See FAQ #13-14). |
| 13 How long is the covered period in which my spending of PPP funds can be forgiven? | This depends on when you received your PPP funds. If you received your PPP funds before 6/5/20, you may choose an 8-week covered period or a 24-week covered period. If you received your PPP funds on or after 6/5/20, but before 7/16/20, your covered period is 24 weeks. If you received your PPP funds on or after 7/16/20, your covered period ends on 12/31/20, regardless of how many weeks that turns out to be. |
| 14 When does my covered period begin? | For non-payroll expenses , the covered period begins on the day that the loan is disbursed. This is the day on the front of the check (if you received the funds by check) or the day that the money appeared in your bank account. For payroll expenses , you have a choice. You may begin your covered period on the day the loan is dispersed or on the first day of the first scheduled payroll period after the loan is dispersed. This second option is called the alternative payroll covered period . However, the alternative payroll covered period can only be used if you pay your employees biweekly or more frequently. |

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| <p>15 If my center was not paying any payroll at the time that I received the PPP funds, can I wait until the date that payroll resumes to begin the alternative payroll covered period?</p> | <p>No. The alternative payroll covered period can begin no later than the date that <i>would have been</i> the first day of your next scheduled pay period after receiving the funds <i>if</i> your center had been paying payroll. You cannot push back the date if your center has not reopened by the start of the next scheduled pay period. <i>For example, if you received your PPP funds on 4/20 and, although your center remained closed until May, your next scheduled pay period would have begun on 4/26 if you had been open, your alternative covered payroll period begins on 4/26.</i> Keep in mind that you may only use the alternative payroll covered period if you pay your employees biweekly or more often.</p> |
| <p>16 If I incur an expense within the covered period but do not pay it until after the covered period, can I receive forgiveness for this expense?</p> | <p>Yes. Amounts that you paid or incurred within the "covered period" qualify for forgiveness. If you paid for something that was incurred during the covered period, then you must show that the amount you paid for that period was paid on either the next payroll date (if it was a covered payroll expense incurred) or the next billing date (if it was a non-payroll covered expense incurred). A payroll expense is incurred each day that an employee works. If you are paying an employee for the employee's regular hours even if your your employee is not working (which could be due to closure), payroll expenses are incurred on the dates and hours you paid them for (that were within your covered period).</p> |
| <p>17 If I make a pre-payment or advance payment during the covered period, can I receive forgiveness for this expense?</p> | <p>No. You are NOT permitted to pre-pay or make advance payments outside of what is paid or incurred during the covered period. This program is also not designed to pay off debts incurred prior to the Covered Period.</p> |
| <p>18 I may not be able to spend all of the PPP money in my covered period. What do I do then?</p> | <p>Any PPP money that do you not spend on payroll and other qualifying expenses within the covered period becomes a loan. You must repay the money that you did not spend, but you can decide whether you want to return unspent funds immediately to the bank or whether you want to spread out the repayment over the full length of the loan. You will determine how much money you did not spend on qualifying PPP expenses when you apply for forgiveness of your PPP loan. It is good practice to plan ahead so that you can make sure you spend your loan proceeds as efficiently as possible to maximize loan forgiveness.</p> |

Covered Payroll Expenses

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| 19 If I want to receive full forgiveness of my loan, how much do I need to spend on covered payroll expenses? | You need to spend 60% or more of your total loan amount on covered payroll expenses to receive full loan forgiveness. If you spend less than 60% of your loan amount on payroll, you will receive less than full forgiveness (See FAQ #42). This is one of many rules in the program that may impact the amount of your loan forgiveness. |
| 20 What counts as "payroll" for purposes of a PPP loan? | "Payroll" includes salaries or wages, health insurance premiums paid for your employees by you, retirement benefits paid for your employees by you, a bonus, hazard pay, and some types of sick or family leave. Payroll does not include employee paid sick leave per the Families First Coronavirus Act. Payroll cost is incurred on the workday for which your employee is paid. "Payroll" does NOT include your employer's share of FICA; you cannot pay your employer's share of FICA with PPP money. Note: The 6/5/2020 Flex Act makes it possible to defer your Employer's portion of Social Security taxes without penalty. For more information, visit the IRS official website FAQs: https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020 |
| 21 Can I give my employees a bonus or hazard pay with PPP funds and have them forgiven? | Yes. The SBA has determined that you may pay hazard pay and/or a bonus that counts as covered payroll expenses. If you decide to provide a bonus or hazard pay, the increase should be necessary & reasonable for your business and you should document the reasons why the higher wage was necessary and reasonable to your business. Make a contemporaneous note detailing any hazard pay or bonuses to explain them and include this explanation with your saved documentation. |
| 22 My employees will have to work longer hours to comply with the new LDOE regulations. Can I pay them for more hours or for overtime? | The SBA has not issued clear guidance on this point. You must still comply with labor laws concerning overtime. If you increase the number of hours an employee works or to pay that employee overtime, you should document the reasons why this was appropriate and necessary and save this explanation as part of your PPP documentation. |

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| <p>23 I pay my workers as independent contractors on 1099s. Can I pay them with PPP funds?</p> | <p>No. You may only use PPP funds to pay direct employees (who receive W-2s).</p> |
| <p>24 Is there a maximum salary I can pay with PPP funds?</p> | <p>Yes. If you have any employee who makes more than \$100,000 per year, you can use PPP funds for the portion of their salary up to \$100,000 as prorated over the length of your covered period. This is \$15,385 in an 8-week covered period and \$46,154 in a 24-week covered period. Note: This does NOT apply to owner-employees (owners who are paid via W2). Owners have a different pay cap of: \$20,833 in a 24-week covered period and a \$15,385 pay cap in an 8-week covered period. Owners should plan to include all forms of income that could be paid to them from the PPP in this pay cap.</p> |
| <p>25 Can I convert my workers from independent contractors (on 1099s) to direct employees (on W-2s)?</p> | <p>The SBA has not issued clear guidance on this point. If you do decide to reclassify your workers as employees to take advantage of the PPP loan forgiveness, you should keep them classified as direct employees going forward. You should also document your business reasons for reclassifying your workers. An owner who pays herself on a 1099 should not convert herself to W-2 employee status. Remember, 1099 employees may be eligible for other relief programs.</p> |
| <p>26 I won't reopen my center for a few more weeks. Can I use PPP funds to pay my employees even if my center is closed?</p> | <p>Yes. You may use PPP funds to pay employees if your center is closed or operating on a limited basis whether due to lack of economic demand or public health considerations. In fact, due to the Headcount/FTE rule, it is better (in this program) to keep your worker's hours paid <u>consistent</u> from the time you receive your PPP loan. However, you should not pay any additional employees (more than you had in the original 2/15-6/30/2019 or 1/1/20-2/29/2020 period) (See FAQ #51) until that employee starts actual work.</p> |
| <p>27 My center needs deep cleaning before I let children back in. Can I hire back my employees to do that cleaning?</p> | <p>Yes, you can hire your employees back to perform that task. However, you cannot use PPP funds to pay for a cleaning service or independent contractor to do the deep cleaning.</p> |

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| 28 Can I pay the expenses of my payroll processor with the PPP money? | No. "Payroll" does not include your business' processing expenses nor your employer's share of FICA (which is the employer share of Medicare and Social Security Taxes). |
| 29 Can I use PPP money to expand my workforce beyond pre-COVID levels? | The SBA has not issued clear guidance on this point. If you hire additional employees and to seek forgiveness of the wages you pay them, you should document why hiring these additional employees was reasonable and necessary for your business. *This question pertains to employees in excess of the number of original employees you employed between either 2/15/19-6/30/19 or 1/1/20-2/29/20 (See FAQ #51). |
| Rules for Owner-Employers | |
| 30 If I pay myself as the owner, is this a forgivable payroll expense? | Maybe. The amount you can pay yourself varies depending on the way that your business is organized. Note: Rental income that your center pays to you or another business that you own may be included within this cap. Please consider any source of income that you could be paid from the PPP when calculating covered owner payroll. Generally, borrowers with an 8-week covered period are capped at eight weeks' worth (8/52) of 2019 compensation or \$15,385 per individual, whichever is less , across all businesses. Borrowers with a 24-week covered period have a cap of 2.5 months' worth (2.5/12) of 2019 compensation, or \$20,833, whichever is less , across all businesses. Special, more specific rules about owner compensation apply for: C-Corporations, S-Corporations, Schedule C or F Filers, General Partners, or Self-Employed Individuals. |
| 31 I pay myself a salary on a form W-2. Can my salary be included as part of the payroll for which forgiveness is allowed? | Maybe. If you are paid as a regular employee (reported on a Form W-2), you may include the pay that you pay to yourself as an Owner-Employee. Your total pay, however, is capped by 2019 employee cash compensation plus amounts that the employer (the center as a business) paid for retirement contributions or healthcare on your behalf, as prorated over the time in your covered period. In an 8-week covered period, the pay is capped at \$15,385. In a 24-week period, an owner's pay is capped at \$20,833. |

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| <p>I am a sole proprietor. Can I pay myself with PPP funds?</p> | <p>Yes. You can use PPP funds to pay yourself even if you are not on the payroll. The amount of loan forgiveness requested for self-employed individuals' payroll compensation is the lesser of: In an 8-week covered period: 2019 net profit x 8/52 or \$15,385. In a 24-week covered period; 2019 net profit x 2.5/12 or \$20,833. Your 2019 net profit is found on line 31 of Form 1040 Schedule C. You are not permitted to request forgiveness for any retirement or healthcare insurance expenses. Remember that your compensation cannot exceed \$15,385 over 8 weeks or \$20,833 over 24 weeks.</p> |
| <p>I am a 20% or more general partner of my center. Can I pay myself with PPP funds? (Self-Employed Individuals)</p> | <p>Yes. You can use PPP funds to pay yourself. If you are a qualified general partner, your pay is determined by the amount of 2019 net earnings from self employment, reduced by Section 179 expense deduction, unreimbursed partnership expenses, and depletion from oil & gas property, multiplied by .9235. As a formula: (2019 net earnings - Section 179) x .9235 = forgivable pay amount. This must then be prorated over the covered period. The amount of loan forgiveness requested for a qualified general partner is the lesser of: In an 8-week covered period: [(2019 net earnings - Section 179) x .9235] x 8/52 or \$15,385. In a 24-week covered period: [(2019 net earnings - Section 179) x .9235] x 2.5/12 or \$20,833. You are not permitted to request forgiveness for any retirement or healthcare insurance expenses. Remember that your compensation cannot exceed \$15,385 over 8 weeks or \$20,833 over 24 weeks. (Retirement and health insurance contributions are included in your net self-employment income and therefore cannot be separately added into your payroll calculation).</p> |
| <p>How do I calculate Owner-Employee compensation if I file a Schedule C or F? (Self-Employed Individuals)</p> | <p>Your owner-employee compensation is capped by the amount of owner compensation replacement from your 2019 net profit. On a schedule C: the Net Profit is on Line 31. (Retirement and health insurance contributions are included in your net self-employment income and therefore cannot be separately added into your payroll calculation). Subject to FAQ #30 (caps on pay).</p> |

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| 33b | <p>How do I calculate my cap on Owner-Employee covered payroll expenses for C-Corporations or S-Corporations?</p> <p>C-Corporation Owner- Employees: Your compensation is capped by the amount of the 2019 employee cash compensation and employer retirement and health insurance contributions made on their behalf. S-Corporation Owner-Employees: Your compensation is capped by the amount of the 2019 employee cash compensation and employer retirement contributions made on their behalf, BUT employer health insurance contributions made on their behalf cannot be separately added (those payments are already included in employee cash comp). Subject to FAQ #30 (caps on pay).</p> |
| 34 | <p>My center is an LLC and I pay myself with draws from the LLC. Can I do that with PPP funds?</p> <p>The SBA has not clearly answered this question. The answer may depend on your business formation, which is how you have chosen to organize and run your business. The current SBA application allows forgiveness for wages and salary paid to W-2 employees and for amounts paid to a sole proprietor or to a general partner. An LLC member-owner may be considered to fall under the same rules as a partnership, but this has not been confirmed by the SBA.</p> |
| Covered Non-Payroll Expenses | |
| 35 | <p>If I want to receive full forgiveness of my loan, how much can I spend on covered non-payroll expenses?</p> <p>Your covered non-payroll spending cannot exceed two-thirds of the amount that you spent on covered payroll expenses. If you spend 60% or more on covered payroll expenses, you may spend the remainder of your loan on covered non-payroll expenses. This means that the amount spent on covered non-payroll can never exceed 40% of your total loan amount.</p> |
| 36 | <p>What non-payroll expenses are forgivable uses of PPP funds?</p> <p>The covered non-payroll expenses are rent (on real estate or on personal property belonging to your center), mortgage interest, and utilities (water, electric, telephone, internet, gas). Insurance payments are not a utility. Personal property that you rent may most commonly include printers and/or printing services that you rent. For rent, mortgage interest, and utilities that you plan on spending, you must show that a lease or mortgage debt that is effective prior to 2/15/2020.</p> |

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| <p>37 I've heard something about transportation being a utility. My center has a van; can I pay the car note with PPP funds?</p> | <p>Maybe. Because the SBA has not defined "transportation," any money spent on a center vehicle may or may not be forgivable. Some lawyers and accountants are interpreting this rule to include gasoline expenses. We do not know for certain that these expenses will be forgivable; but you may track and include a request for gas-related expenses for your business with your forgiveness application.</p> |
| <p>38 I own my the building where my center is located and then pay rent to myself. Can I use PPP funds for that rent?</p> | <p>The SBA has not issued guidance on this question. If rent is to be forgiven you must either have a written lease dated prior to February 15, 2020 and under which you make regular rental payments or else be able to demonstrate a record of regular and consistent rental payments from your center to the landlord. Keep in mind that total compensation for any individual in the covered period, including compensation from other businesses you own, may not exceed limits for owners or the \$100k/annual salary limit which is capped at a lower amount for owners for a 24-week covered period (See FAQs #30-34).</p> |
| <p>39 I own my building but have a mortgage. Can I use up to 40% of my PPP funds to pay my mortgage?</p> | <p>Only mortgage interest can be paid with PPP funds. Mortgage payments generally go to three different things: principal (the amount of your original bank loan), interest, and insurance. Most statements that you are sent by your mortgage servicing company or bank will identify the amounts that you are paying for each category. After you pay your monthly mortgage payment from your general account, you can move an amount equal to the interest payment from your PPP account to your main account.</p> |
| <p>40 Can I use PPP funds to hire a cleaning service or contractor to come in and do the job?</p> | <p>No, you cannot use PPP money to pay for a cleaning service or contractor to come and do a deep cleaning. You can use an EIDL advance or an LDOE grant for this purpose.</p> |
| <p>The 60% Rule</p> | |
| <p>41 Do I have to use a certain amount of the PPP funds for payroll?</p> | <p>Yes. To qualify for maximum forgiveness, you must spend at least 60% of the PPP loan amount on covered payroll expenses and the remaining funds on covered non-payroll expenses. You still have to comply with all other program requirements to qualify for full forgiveness.</p> |

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| <p>42 What happens if I spend less than 60% of my total loan amount on payroll?</p> | <p>If you do not spend at least 60% of the loan amount on payroll, the amount of non-payroll expenses that can be forgiven will also be reduced. The amount of non-payroll expenses that can be forgiven cannot exceed 2/3 of the amount you spend on payroll. To calculate this, take your payroll spending and multiply it by 0.666667 to find a very close approximation of your maximum forgivable non-payroll spending. (Ex: if payroll spending is \$10k, then $10,000 \times .666667 = \\$6,666.67$. The \$6,666.67 is the approximate amount of covered non-payroll expenses if you spent \$10,000 on covered payroll expenses).</p> |
| <p>42a How can I calculate my total forgiveness based on what I spent on payroll?</p> | <p>Divide the amount spent on payroll by .6. Ex: If you spent \$10k on payroll, then: $10,000 \div .6 = \\$16,666.67$. This way, we can see that \$16,666.67 (total amount that can be forgiven) - \$10k (amount spent on covered payroll) leaves a total of \$6,666.67 to be spent on covered non-payroll costs. These numbers that show total amount that can be spent on non-payroll expenses are the same as in the above example at FAQ #42--this is a good way to check your math.</p> |
| <p>43 What happens if I do not spend any of my PPP funds on payroll?</p> | <p>If you spend no money on payroll, then any money you spend on covered non-payroll expenses (rent, utilities, mortgage interest) will not be forgiven.</p> |
| <p>44 What happens if I do not spend all of my PPP funds?</p> | <p>Any unspent funds will have to be paid back at the terms of the loan. You may be able to return the unspent portion, but the SBA has not confirmed this. Ask your lender.</p> |
| <p>The Headcount Rule</p> | |
| <p>45 Do I have to keep the same number of employees that I had before my center closed?</p> | <p>Yes. If you do not have the same number of FTE (full-time equivalent) employees during the covered period as you had before COVID-19, the amount of your spending that can be forgiven may be reduced. However, you may be able to avoid this reduction if you qualify for FTE Safe Harbor 1 or 2, or lessen the reduction if you qualify for one of the FTE Reduction Exceptions.</p> |
| <p>46 What time period will be the basis for determining how many employees I had before COVID-19?</p> | <p>When applying for forgiveness, you will have to compare your FTE employees during your covered period to either a) 2/15/19 to 6/30/19 or b) 1/1/20 to 2/29/20. The comparison period that you choose is called your "reference period."</p> |

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| <p>How do I count how many full-time equivalent (FTE) employees I have?</p> | <p>You may choose one of two methods to calculate how to convert employees to FTEs:</p> <p>(1) <u>The Standard Method</u> - Find the average number of hours paid to the employee per week during the relevant period*, divide the result by forty, round to the nearest tenth, and reduce to 1 if the result is greater than 1; or</p> <p>(2) <u>The Simplified Method</u> - Count each employee who was paid an average of 40 hours per week or more in the relevant period* as 1.0 FTE and each person who was paid less than 40 hours as 0.5 FTE. To find your total number of FTE employees, add up the amounts you calculated by method (1) or method (2). Although you are free to use either method, be sure to use the same method for both your reference period and the covered period. It may be useful to do the math for both methods to see which one benefits you.</p> <p>* In order to find the average number of hours paid per week to an employee, you will add up all the hours in the relevant period (reference period or covered period), and divide by the number of weeks in that reference period. That will give you the average number of hours that this employee worked in the relevant time period.</p> <p>Note that FTE refers to the number of hours that the employer <u>paid to</u> an employee, NOT the number of hours the employee worked.</p> |
| <p>If I employ fewer FTE employees during my covered period than I did during my reference period, how will this affect my forgiveness amount?</p> | <p>The Application for Forgiveness will require you to calculate your reduction quotient, which is found by dividing your covered period FTEs by your reference period FTEs. For example, if you employed an average of 8 FTE employees during your covered period and 10 FTE employees during your reference period, your reduction quotient is 0.8 -- because $8 / 10 = 0.8$. Your maximum amount of forgiveness cannot exceed your <u>covered spending</u> (this is the total covered payroll plus covered non payroll spending; NOT your total loan amount) multiplied by your reduction quotient. For example, if your reduction quotient is 0.8 and your covered spending is \$20,000, your maximum forgiveness is \$16,000 -- because $\\$20,000 * 0.8 = \\$16,000$. Note that you <u>may still avoid this reduction if you qualify for one of the two FTE Safe Harbors OR if you qualify for one of the Reduction Exceptions.</u></p> |

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| <p>49 What is the FTE Reduction Safe Harbor?</p> | <p>FTE Reduction Safe Harbor is a rule that permits you to avoid a reduction in loan forgiveness when you are not able maintain the same average number of FTE employees during your covered period that you had during your reference period. There are two different FTE Safe Harbors: #1 and #2. Please see FAQs below.</p> |
| <p>49a How may I qualify for FTE Reduction Safe Harbor #1?</p> | <p>If your business was unable to return to the same level of business as before 2/15/2020 due to compliance with Center for Disease Control (CDC), Health and Human Services (HHS), or Occupational Safety and Health Administration (OSHA) requirements for COVID-19 maintenance standards for sanitation, social distancing, or any other worker or customer safety requirements that were rolled out between 3/1/2020 to 12/31/2020; then you need to show that adverse impact and document how and which regulations impacted your business. If your business was adversely impacted by these new regulations between 3/1- 12/31/20, <u>and within your covered period you were not able to return to your prior operating levels</u>, you will not face a reduction in forgiveness due to FTEs.</p> |
| <p>49b How may I qualify for FTE Reduction Safe Harbor #2?</p> | <p>This Safe Harbor applies only if you reduced staffing in the period of 2/15 - 4/26. If so, find your FTE count for the pay period that included 2/15. If you can return to this FTE count on or before 12/31, then this Safe Harbor is met.</p> |
| <p>50 What are the "FTE Reduction Exceptions"?</p> | <p>These rules allows you to exclude some employees from the FTE reduction calculation; so that this specific employee, if they fit one of the exceptions below, does not negatively impact your FTE calculation. There are five reduction exceptions. Remember: For any of these exceptions, the Employer cannot fill the position by a new employee or the employer cannot take advantage of this excpetion. See FAQ #47 to determine how to calculate FTE. Note: Any changes to employment that may impact unemployment compensation must be reported to the Louisiana Workforce Commission (unemployment office) within 30 days of the refusal. Keep in mind that this may result in former employees losing their unemployment benefits.</p> |

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| 50a | FTE Reduction Exception #1: | 1. For former employees: If the employer makes a good faith offer to rehire an employee who was employed on 2/15/20, and the employee refused, and the employer is unable to hire a similarly-qualified employee for that unfilled position on or prior to 12/31/2020; then the employer does not have to count this employee reduction in FTE against themselves. Basically, you will use this former employee's FTE in the reference period and make it the same in the covered period. |
| 50b | FTE Reduciton Exception #2: | 2. For current employees with reduced hours: If the employer makes a good faith offer to restore any reduction in hours, at the same salary or wage, for the entire covered period (or alternative payroll covered period) to their current employee and the employee rejects the offer, then there is no reduction in FTE for the employer as long as the employer does not fill the position with a new employee. |
| 50c | FTE Reduction Exception #3: | 3. If the employer has to fire the employee for cause; and the employer does not fill the position with a new employee, then there is no reduction in FTE. |
| 50d | FTE Reduction Exception #4: | 4. If the employee voluntarily resigns and the employer does not fill the position with a new employee, then there is no reduction in FTE. |
| 50e | FTE Reduction Exception #5: | 5. If the employee requests a reduction in hours and is granted that reduction, and the employer does not fill the position with a new employee, then there is no reduction in FTE. |
| 51 | What do I do if someone refuses to come back to work and I can't find anyone to replace them? | You should document your efforts to find a similarly qualified replacement for a former employee who will not come back. One of the FTE Reduction Safe Harbors and/or one of the Reduction Exceptions may protect you from an FTE-based reduction in your forgiveness in this situation. |

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| <p>I don't have any children in my center yet or I have far fewer children than I had before. Because of this, I don't need as many employees in the building right now. Can I still rehire people and pay them even if they aren't coming in to work in order to keep my number of employees constant?</p> | <p>Yes. This is actually the purpose of the PPP program. The program is designed to protect workers' paychecks even if the businesses they work for have had to close or reduce their staff or hours as a result of the COVID-19 pandemic. For instance, if your center was open 6:30 am - 6:30 pm before COVID-19, but now is only open 7 am - 6pm, you can still pay employees for the time they would have been working under the former schedule.</p> <p>Please also note that if your business has suffered due to compliance with CDC, HHS, or OSHA, you might qualify for Safe Harbor #1 and you may not face an FTE reduction.</p> |
| <p>Can I count my independent contractors (1099s) when I determine how many FTE employees I have?</p> | <p>No. Your calculation of FTE employees should never include independent contractors. This is true of both FTE calculations for the covered period and for your chosen reference period of either 2/15/19 to 6/30/19 or 1/1/20 to 2/29/20.</p> |
| <p>My center was closed for part of the covered period and I didn't pay my employees during that time. Will this count against me?</p> | <p>This will count against you unless you are able to take advantage of one of the FTE Reduction Safe Harbors or one of the Reduction Exceptions.</p> |
| <p>Some of my employees will not come back to work for me. Can I hire different people in their place and still qualify for loan forgiveness?</p> | <p>You can replace one employee with another. However, you will have to do the math to determine whether this will reduce your loan forgiveness because of the reduction quotient; or whether you will qualify for one of the Safe Harbors or Reduction Exceptions.</p> |
| <p>If some of my employees are not coming back, can I hire family members to help run my center?</p> | <p>Yes. There is no restriction under the PPP program for whom you can hire as an employee as long as their principal place of residence is the United States.</p> |

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| <p>57 Some of my employees want to come back and work for me, but they are receiving unemployment. Can my employees come back without getting into trouble?</p> | <p>Yes. A worker can't get paid by you and by unemployment, but each payment from unemployment covers time prior to the payment. That means that a former employee can start working for you at any time. To avoid a problem with unemployment, your worker should not make their next weekly report to the Louisiana Workforce Commission.</p> |
| <p>58 My employees are getting more money from unemployment than I can pay them. Some asked if they could just work for me part-time until their unemployment runs out. Is that possible?</p> | <p>It depends. If a worker refuses an offer for full-time employment, they may be disqualified for unemployment. As an employer, you are required to report within 30 days if a former employee who has refused an offer of employment from you. The former employee may be liable for any money they received in unemployment compensation after the date they refused an offer of employment. Note: A person can work part-time while receiving unemployment. If you offer and your former employee accepts working at reduced hours or part time instead of their former full-time job, the amount of their unemployment may be reduced.</p> |
| <p>59 If I know that a former employee cannot return to work for COVID-related reasons, do I have to make an offer to rehire them?</p> | <p>No. You are not required to make a written offer to re-hire that employee, but it is one of the options to help you meet the FTE (Full-Time Equivalent) Employee headcount test via Reduction Exception. You may also find a replacement or replacements for that employee to work the same number of average hours in your covered period OR at least to replace this employee with an employee who works the same number of average hours per week prior to 12/31/20 to qualify for FTE Reduction Safe Harbor #2. You may also calculate whether the standard or simplified part-time employee hour calculation would most benefit you when planning for the same number of FTEs in both the reference and covered period.</p> <p>If you do choose to write an employment offer to a former employee in order to take advantage of one of the Reduction Exceptions, there are additional steps you must take in order to take advantage of the Reduction Exception, including reporting the employee's response to the Louisiana Workforce Commission, which may make that former employee ineligible for unemployment.</p> |

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| <p>60 If I make an employment offer to a former employee and they accept, but cannot come back to work for COVID-related reasons, do I have to pay them?</p> | <p>Maybe in some cases. Current employees may be eligible for sick leave that is not forgivable as a covered payroll expense under the PPP.</p> <p>See: Employee Rights under the Families First Coronavirus Response Act and Quick Benefit Tips - How much paid leave can employees take?</p> <p>Note that these same benefits apply to all current employees.</p> |
| <p>Cutting Employees' Pay</p> | |
| <p>61 My business isn't bringing in as much money. Can I cut my employees' wages?</p> | <p>It depends. If you lower an employee's wages by no more than 25%, your loan forgiveness may not be reduced. However, if you elect to cut employees' wages, it may make it more difficult for you to spend 60% of the loan amount on payroll.</p> <p>If you lower an an employee's wages by more than 25%, this will reduce the percentage of your spending that can be forgiven. On the other hand, paying higher wages to employees due to hazard pay or paying bonuses is permitted in this program (see Question #21).</p> |
| <p>EIDL Advances</p> | |
| <p>62 I received an EIDL (Economic Injury in Disaster Loan) Advance but not a PPP loan. What can I spend the EIDL Advance on?</p> | <p>An EIDL advance can be used for any ordinary business expense including payroll, paid sick leave (for absences directly related to COVID-19), rent, mortgage principal and interest, supplies, insurance, and other obligations that you cannot meet because of reduced revenues; it cannot be used to expand your business. The funds can also be used for qualifying expenses you incurred prior to obtaining a PPP loan. There is no time limit in which you have to spend an EIDL advance. EIDL funds <u>cannot</u> be spent to refinance indebtedness, pay loans owed to the government or a Small Business Investment Company, pay any tax penalty resulting from negligence or fraud or any non-tax criminal or civil fine or penalty, repair physical damage to a structure, and pay dividends or disbursements to owners (other than for services actually performed).</p> |

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| <p>63 I received an EIDL (Economic Injury in Disaster Loan) Advance and a PPP loan. What can I spend the EIDL Advance on?</p> | <p>If you received PPP and an EIDL advance, you can spend the EIDL advance on all of its normal purposes (see previous question). However, you cannot spend EIDL advance money on the same thing that you record as forgivable spending on your PPP forgiveness application. This means that you can spend your EIDL advance on payroll, rent, utilities, etc. as long as you do not also seek PPP forgiveness for the same things that EIDL money was spent on. Keep in mind, you should track what you are spending from what source, and you should keep these sources of money separate from each other. You cannot reimburse yourself for an expense from both EIDL Advance and PPP.</p> |
| <p>64 I received a PPP loan and an EIDL Advance. How does this affect forgiveness of a PPP loan?</p> | <p>The amount of the EIDL Advance will be deducted from the amount of your PPP loan that can be forgiven. For example, if you received a \$5,000 EIDL Advance and a \$12,000 PPP loan, the maximum amount of loan forgiveness for the PPP loan is \$7,000. You will have to repay at least \$5,000 of your PPP loan. The reduction comes from the amount of forgiveness, not from the amount of the loan. So if you only spend \$6,000 of your PPP loan, your forgiveness is \$1,000, and you must repay \$11,000. Please keep in mind that if you applied for your PPP loan after you received your EIDL advance, and you noted these amounts on your PPP application, your lender may have already accommodated this amount in your total PPP loan payment disbursed. This means your PPP loan should have been reduced by the EIDL Advance amount; which you will then add back in to the amount you have to repay from the PPP loan.</p> |
| <p>65 I paid my accountant to help me file the application for a PPP loan and an EIDL Advance. Can you use the EIDL funds to pay the accountant's fee?</p> | <p>No. EIDL funds are only to be used for regular business expenses that you cannot pay because of the disruptions caused by COVID-19.</p> |
| <p>66 Can I pay my property tax assessment with the EIDL Advance?</p> | <p>Yes. You may pay your property tax assessment with the EIDL Advance but may not use the advance to pay tax penalties arising from negligent or fraudulent conduct.</p> |

Miscellaneous

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| 67 I don't know if my center will be able to stay open once the covered period is over. What happens if I have to close my center? | The SBA does not require that a business be able to stay open past the covered period in order to seek forgiveness of the PPP loan. However, this may affect your eligibility for safe harbor. If you decide that your center cannot remain open without the support of the loan and grant programs, you should document your business reasons for closing your center and document how you spent all of the available funds. |
| 68 What do I do if I don't plan to spend any of my PPP funds? | If you spend none of your PPP funds, then you will have to repay the loan. Any amounts of a PPP loan that are not forgiven must be repaid with interest. You may ask your lender if you can return unspent funds. |
| 69 Will my center be liable if I open up and an employee or child gets sick with COVID-19? | You can minimize the risk of a lawsuit by following all applicable government guidelines, by creating and enforcing policies that reflect those guidelines, and by taking hygiene and cleaning seriously. This includes CDC, HHS, and OSHA guidelines related to COVID-19. DOCUMENT when you comply with these guidelines and their effect on your business, as you may be able to qualify for FTE Reduction Safe Harbor #1. (See FAQ #49a) |
| 70 If an employee can't come back to work because the employee is caring for a child whose school has been canceled, can I use PPP funds to pay that employee? | It depends (See FAQ #60). If the employee has requested sick leave or expanded family leave to care for their own child (i.e., a child the employee has regular and full responsibility for), then you must pay that leave at the rate required by law and then take a credit on your next tax return. If the employee has not requested sick leave or expanded family leave or is caring for a child that is not a child over which the employee has regular and full responsibility, you can use PPP funds to pay that employee's wages. |

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Disclaimers: The "she/her" pronouns used in this FAQ represents any/all genders and does not mean that the rules do not apply to a person of a different gender.

The information in this document is not legal advice and does not create an attorney-client relationship.

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