Paycheck Protection Program (PPP): Loan Forgiveness Rules Post PPP Flexibility Act
Agenda

• Expected Forgiveness Amount
• Limits on Loan Forgiveness
  • Salary/Hourly Wage Reduction
  • Subtract Wage and Salary Reduction from Expected Forgiveness
  • Next, Apply FTE Reduction Quotient
  • Lastly, Apply Payroll Cost 60% Requirement
• Updates on IRS/SBA Regulatory Guidance of Note
• Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application
• Documents that Each Borrower Must Maintain but is Not Required to Submit
Expected Forgiveness Amount

• Defined: Amounts of the PPP loan that were used during the period following receipt of the proceeds (Covered Period) for:

  • Payroll costs, and to pay the following obligations in effect on Feb. 15, 2020 for mortgage interest, other debt interest, rent, and utilities
Eligible Payroll Costs Overview

• Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the 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.
Covered Period

The term ‘Covered Period’ means:

• The **period beginning on the date of the origination** of a covered loan **and ending** the earlier of—
  • the date that is **24 weeks** after such date of origination; or
  • December 31, 2020

• APPLICATION TO CERTAIN ELIGIBLE RECIPIENTS.—An eligible recipient that received a covered loan before the date of enactment of this subsection **may elect for the covered period** applicable to such covered loan to end on the date **that is 8 weeks** after the date of the origination of such covered loan.
Alternative Payroll Covered Period

• Borrowers who elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in this application to “the Covered Period or the Alternative Payroll Covered Period.”

• However, Borrowers must apply the Covered Period (not the Alternative Payroll Covered Period) wherever there is a reference in this application to “the Covered Period” only.
Alternative Payroll Covered Period

• Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the period that begins on the first day of their first pay period following their PPP Loan Disbursement Date (the “Alternative Payroll Covered Period”).

• **For example**, if the Borrower elected the 8 week 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, June 20.
Detail Calculation of Payroll Costs

• **Line 1 of Application:** Enter total eligible payroll costs incurred or paid during the Covered Period or the Alternative Payroll Covered Period.

• To calculate these costs, complete PPP Schedule A. **Enter the amount from PPP Schedule A, line 10.** (See buildup to payroll costs on the following Slides)
Build Up To PPP Schedule A, line 10

• **Line 1. Enter Cash Compensation** (Box 1) from PPP Schedule A Worksheet, Table 1 (Protected Class)

• **Line 4. Enter Cash Compensation** (Box 4) from PPP Schedule A Worksheet, Table 2 (Highly Compensated Employees)

• **Cash Compensation**: Enter the sum of gross salary, gross wages, gross tips, gross commissions, paid leave (vacation, family, medical or sick leave, not including leave covered by the Families First Coronavirus Response Act), and allowances for dismissal or separation paid or incurred during the Covered Period or the 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; therefore, do not enter more than $15,385 ($46,154 over a 24 week period) in Table 1 or Table 2 for any individual employee.
Build Up To PPP Schedule A, line 10

• **Line 6:** Enter the total amount paid by the Borrower for employer contributions for employee **health insurance**, including employer contributions to a self-insured, employer-sponsored group health plan, but excluding any pre-tax or after tax contributions by employees.

• **Line 7:** Enter the total amount paid by the Borrower for employer contributions to employee retirement plans, excluding any pre-tax or after-tax contributions by employees.

• **Line 8:** Enter the total amount paid by the Borrower for employer state and local taxes assessed on employee compensation (e.g., state unemployment insurance tax); do not list any taxes withheld from employee earnings.

• **Line 9:** Enter any amounts paid to owners (owner-employees, a self-employed individual, or general partners). This amount is capped at $15,385 (8 week) or $46,154 (24 week) (the applicable equivalent of $100,000 per year) for each individual or the equivalent of their applicable compensation in 2019, whichever is lower.
Open Questions Re: Payroll Costs

• Must qualified retirement plan contributions during the Covered Period be converted to a monthly amount?
  
  • For loan approval an annual contribution was part of the 12 month average, which essentially converted the annual contribution to a monthly amount.
  
  • Current guidance does not require one time contributions during the Covered Period to be pro-rated to match the duration of the Covered Period. However, it would not be unreasonable for future guidance to require such allocation.
Eligible Nonpayroll Costs Overview

• An eligible nonpayroll 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 nonpayroll costs cannot exceed **40%** of the total forgiveness amount. Count nonpayroll costs that were both paid and incurred only once.
Detail Calculation of Nonpayroll Costs

• **Line 2 of Application:** Enter the amount of business mortgage interest (not including any prepayment or payment of principal) payments during the Covered Period for any business mortgage obligation on real or personal property incurred before February 15, 2020.

• Open questions re: interest allowable
  • No current disallowance of mortgage payments to related parties, but future guidance may change that position.
Detail Calculation of Nonpayroll Costs

• **Line 3 of Application:** Enter the amount of business rent or lease payments for real or personal property during the Covered Period, pursuant to lease agreements in force before February 15, 2020.

• Open questions re: rent allowable?
  • No current disallowance of rental payments to related parties, but future guidance may change that position.
Detail Calculation of Nonpayroll Costs

- **Line 4 of Application:** Enter the amount of business utility payments during the Covered Period, for business utilities for which service began before February 15, 2020.

- Covered utility payments: business payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.
Reductions of Expected Forgiveness Amounts

• Statutory reductions

1. For employees with < $100,000 of 2019 compensation, the **wage and salary payments** during the Covered Period are less than 75% of the wage and salary amounts for the next earliest full calendar quarter (Q1-2020 for PPP loan received in Q2 of 2020)

2. The **FTE count** during the covered period is fewer than the pre-COVID-19 levels
Reductions of Expected Forgiveness Amounts

- **Line 5 of the Application:** Enter the number from PPP Schedule A, line 3. This amount reflects the loan forgiveness reduction required for salary/hourly wage reductions in excess of 25% for certain employees as described in PPP Schedule A.
Schedule A, line 3

- **Salary/Hourly Wage Reduction:** This calculation will be used to determine whether the Borrower’s loan forgiveness amount must be reduced due to a statutory requirement concerning reductions in employee salary and wages.

- The actual amount of loan forgiveness the Borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the Covered Period or the Alternative Payroll Covered Period was less than during the period from January 1, 2020 to March 31, 2020.

- If the Borrower restored salary/hourly wage levels, the Borrower may be eligible for elimination of the Salary/Hourly Wage Reduction amount.

- Borrowers must complete this Schedule A Worksheet to determine whether to reduce the amount of loan forgiveness for which they are eligible.

- Complete the Salary/Hour Wage Reduction column of Schedule A Worksheet only for employees whose salaries or hourly wages were reduced by more than 25% during the Covered Period or the Alternative Payroll Covered Period as compared to the period of January 1, 2020 through March 31, 2020.
Schedule A, line 3

• Line 3. Enter Salary/Hourly Wage Reduction (Box 3) from PPP Schedule A Worksheet, Table 1:

• If the average annual salary or hourly wage for each employee listed on the PPP Schedule A Worksheet, Table 1 during the Covered Period or the Alternative Payroll Covered Period was at least 75% of such employee’s average annual salary or hourly wage between January 1, 2020 and March 31, 2020, check here ☐ and enter 0 on line 3.
PPP Schedule A Worksheet, Table 1

For each employee listed in Schedule A Worksheet Table 1, complete the following (using salary for salaried employees and hourly wage for hourly employees):

Step 1. Determine if pay was reduced more than 25%.

a. Enter average annual salary or hourly wage during Covered Period or Alternative Payroll Covered Period: ____________.

b. Enter average annual salary or hourly wage between January 1, 2020 and March 31, 2020: ____________.

c. Divide the value entered in 1.a. by 1.b.: ____________.

If 1.c. is 0.75 or more, enter zero in the column above box 3 for that employee; otherwise proceed to Step 2.

This is the first Safe Harbor = Salary and Wage reduction not more than 25%
PPP Schedule A Worksheet, Table 1

• **Salary/Hourly Wage Reduction if you fail the first Safe Harbor**

• **Step 2. Determine if** the Salary/Hourly Wage Reduction **Second Safe Harbor is met.**

  • a. Enter the **annual salary or hourly wage** as of **February 15, 2020**: ______________.

  • b. Enter the **average annual salary or hourly wage** between February 15, 2020 and April 26, 2020: ______________.

  • **If 2.b. is equal to or greater than 2.a., skip to Step 3.** Otherwise, proceed to 2.c.

  • c. Enter the **average annual salary or hourly wage** as of **December 31, 2020**: ______________.

  • If 2.c. is equal to or greater than 2.a., the Salary/Hourly Wage Reduction Safe Harbor has been met – enter zero in the column above box 3 for that employee. Otherwise proceed to Step 3.

• **This is the second Safe Harbor = if average annual salary or hourly wage between February 15, 2020 and April 26, 2020 is lower than that in effect on February 15, 2020 and that wage reduction is restored by December 31, 2020.**
PPP Schedule A Worksheet, Table 1

- **Salary/Hourly Wage Reduction calculation if you fail both Safe Harbors**

- **Step 3. Determine the Salary/Hourly Wage Reduction.**

  - a. Multiply the amount entered in 1.b. by 0.75: ___________ (This is the target you must hit or incur forgiveness reduction for any amount below established target).
    - 1.b. = Enter average annual salary or hourly wage between January 1, 2020 and March 31, 2020
  
  - b. Subtract the amount entered in 1.a. from 3.a.: ___________ (Subtract the actual paid from the target established to determine the shortfall).
    - 1.a. Enter average annual salary or hourly wage during Covered Period or Alternative Payroll Covered Period:
PPP Schedule A Worksheet, Table 1

• Salary/Hourly Wage Reduction calculation if you fail both Safe Harbors

• Step 3. Determine the Salary/Hourly Wage Reduction (Continued).

• If the employee is an hourly worker, compute the total dollar amount of the reduction that exceeds 25% as follows:

  c. Enter the average number of hours worked per week between January 1, 2020 and March 31, 2020 (Base Period): ____________.

  d. Multiply the amount entered in 3.b. (the shortfall vs. the established target minimum hourly rate) by the amount entered in 3.c. (average weekly hours worked in base period) ____________ (weekly shortfall). Multiply this amount by the weeks in your Covered Period: ____________ (shortfall for the post closing period). Enter this value in the column above box 3 for that employee.
PPP Schedule A Worksheet, Table 1

- Salary/Hourly Wage Reduction calculation if you fail both Safe Harbors

- Step 3. Determine the Salary/Hourly Wage Reduction (Continued).

- If the employee is a **salaried worker**, compute the total dollar amount of the reduction that exceeds 25% as follows:

  - e. Multiply the amount entered in 3.b. (the shortfall vs. the established target minimum annual salary) by the **weeks in your Covered Period**: __________. Divide this amount by 52: __________ (multiplying by the weeks in your Covered Period and dividing by 52 normalizes the excess salary reduction for the Covered Period). Enter this value in the column above box 3 for that employee.
FTE Definition

• For each employee, enter the average number of hours paid per week, divide by 40, and round the total to the nearest tenth.

• The maximum for each employee is capped at 1.0.

• A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the Borrower.
Which Employees to Count in FTE Calculations

• Count the employees for the employer as used for the PPP
  • Affiliated groups
  • If NAICS Code begins with 72 the individual locations used for the PPP application
  • Member of affiliated groups that include NAICS code of 72, all members except the NAICS code 72

• Employees of the Employer
  • Those who receive wages under the employer’s EIN(s)
  • Those who render services but are paid under a different EIN such as a professional employer organization or other similar arrangement
  • Other arrangements might include a payroll trustee agreement or a management companies that pay workers under its EIN but charges back the payroll cost to its customers
FTE Reduction Exceptions:

• Indicate the FTE of:

(1) any positions for which the Borrower made a good-faith, written offer to rehire an employee during the Covered Period or the Alternative Payroll Covered Period which was rejected by the employee; and
FTE Reduction Exceptions (Continued):

• Indicate the FTE of:

(2) any employees who during the Covered Period or the Alternative Payroll Covered Period were

  (a) fired for cause,
  (b) voluntarily resigned, or
  (c) voluntarily requested and received a reduction of their hours.
FTE Reduction Exceptions (Continued):

• Indicate the FTE of:

(3) any positions where there is an inability to hire similarly qualified employees for unfilled positions

In all of these cases, include these FTEs only if the position was not filled by a new employee. Any FTE reductions in these cases do not reduce the Borrower’s loan forgiveness.
FTE Reduction Exceptions (Continued):

• Applicant is able to document an inability to return to the same level of business activity as such business was operating at before February 15, 2020

• Due to compliance with requirements established or guidance issued 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 during the period beginning on March 1, 2020, and ending December 31, 2020

• Related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID–19.
FTE Reduction Safe Harbor

• A safe harbor under applicable law and regulation exempts certain borrowers from the loan forgiveness reduction based on FTE employee levels.

• Specifically, the Borrower is exempt from the reduction in loan forgiveness based on FTE employees if **both** of the following conditions are met:

  (1) the Borrower reduced its FTE employee levels in the period **beginning February 15, 2020, and ending April 26, 2020**; and

  (2) the Borrower then restored its FTE employee levels by not later than **December 31, 2020** to its FTE employee levels in the Borrower’s pay period that included **February 15, 2020**.
What Information is Needed for FTE Calculations?

• Choose from the two alternative reference periods:
  • February 15, 2019-June 30, 2019
  • January 1, 2020 -February 29, 2020
• For February 15, 2020
• For February 15, 2020 through April 26, 2020
• For the Covered Period (or the Alternative Payroll Covered Period)
• For December 31, 2020
Reductions of Expected Forgiveness Amounts

• **Line 7 of the Application. FTE Reduction Quotient** (enter the number from PPP Schedule A, line 13):
PPP Schedule A, line 13

• **Full-Time Equivalency (FTE) Reduction Calculation**

• If you have not reduced the number of employees or the average paid hours of your employees between January 1, 2020 and the end of the Covered Period, check here ☐, skip lines 11 and 12 and enter **1.0** on line 13.

• Line 11. **Average FTE** during the Borrower’s chosen reference period

• Line 12. **Total Average FTE in Covered Period** (add lines 2 and 5)
  - Line 2. Enter Average FTE (Box 2) from PPP Schedule A Worksheet, Table 1 (Protected Class of employees)
  - Line 5. Enter Average FTE (Box 5) from PPP Schedule A Worksheet, Table 2 (Highly Compensated employees)

• Line 13. **FTE Reduction Quotient** (divide line 12 by line 11) or enter 1.0 if FTE Safe Harbor is met
Reductions of Expected Forgiveness Amounts

- **Line 10 of Application** = Payroll Cost
  **60% Requirement**

- Divide Payroll Costs (Line 1 of Application) by **0.60**
Forgiveness Amount

• **Line 11 of Application** = Forgiveness Amount
  
  • Enter the smallest of lines 8, 9, and 10
    
    • Line 8 = Modified Total (expected forgiveness adjusted by statutory Salary/Hourly Wage Reduction and modified by FTE Reduction Quotient)

    • Line 9 = PPP Loan Amount

    • Line 10 = Payroll Costs divided by **.60**
Summary of Loan Forgiveness Calculation

1. Calculate expected forgiveness amount
2. Calculate wage and salary reduction
3. Subtract item 2 from item 1
4. Calculate FTE Reduction Quotient
5. Multiply item 4 times item 3
6. Calculate the Payroll Costs during the Covered Period (or Alternative Payroll Covered Period)
7. Divide item 6 by item 5
8. If the result in item 7 is 60% or greater = Success!!!
9. If the result in item 7 is less than 60%, divide the Payroll Costs in item 6 by 60% to determine the maximum forgiven loan
Updates on IRS/SBA Regulatory Guidance of Note

Are Forgiven Amounts Taxable Income?

IRS Notice 2020-32

• Specifically, this notice clarifies that no deduction is allowed under the Internal Revenue Code (Code) for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281, 286-93 (March 27, 2020) and the income associated with the forgiveness is excluded from gross income for purposes of the Code pursuant to section 1106(i) of the CARES Act
Updates on IRS/SBA Regulatory Guidance of Note

Should I Repay the Loan in Full?

31. **Question:** Do businesses owned by large companies with adequate sources of liquidity to support the business’s ongoing operations qualify for a PPP loan?

**Answer:** In addition to reviewing applicable affiliation rules to determine eligibility, all borrowers must assess their economic need for a PPP loan under the standard established by the CARES Act and the PPP regulations at the time of the loan application. Although the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere (as defined in section 3(h) of the Small Business Act), borrowers still must certify in good faith that their PPP loan request is necessary. Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that “current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business. For example, it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification.

- Lenders may rely on a borrower’s certification regarding the necessity of the loan request. Any borrower that applied for a PPP loan prior to the issuance of this guidance and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.
Should I Repay the Loan in Full?

37. **Question:** Do businesses owned by private companies with adequate sources of liquidity to support the business’s ongoing operations qualify for a PPP loan?

**Answer:** See response to FAQ #31.
39. **Question:** Will SBA review individual PPP loan files?

**Answer:** Yes. In FAQ #31, SBA reminded all borrowers of an important certification required to obtain a PPP loan. To further ensure PPP loans are limited to eligible borrowers in need, the SBA has decided, in consultation with the Department of the Treasury, that it will review all loans in excess of $2 million, in addition to other loans as appropriate, following the lender’s submission of the borrower’s loan forgiveness application. Additional guidance implementing this procedure will be forthcoming.
Updates on IRS/SBA Regulatory Guidance of Note

Should I Repay the Loan in Full?

• **Question:** FAQ #31 reminded borrowers to review carefully the required certification on the Borrower Application Form that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” SBA guidance and regulations provide that any borrower who applied for a PPP loan prior to April 24, 2020 and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith. Is it possible for a borrower to obtain an extension of the May 7, 2020 repayment date?

• **Answer:** SBA is extending the repayment date for this safe harbor to **May 14, 2020**. Borrowers do not need to apply for this extension. This extension will be promptly implemented through a revision to the SBA’s interim final rule providing the safe harbor. SBA intends to provide additional guidance on how it will review the certification prior to May 14, 2020.
Updates on IRS/SBA Regulatory Guidance of Note

Should I Repay the Loan in Full?

• 46. Question: How will SBA review borrowers’ required good-faith certification concerning the necessity of their loan request?

• Answer: 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 the following safe harbor will apply to SBA’s review of PPP loans with respect to this issue: 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.

• 20 For purposes of this safe harbor, a borrower must include its affiliates to the extent required under the interim final rule on affiliates, 85 FR 20817 (April 15, 2020).
Should I Repay the Loan in Full?

• 46. Question: How will SBA review borrowers’ required good-faith certification concerning the necessity of their loan request?

• Answer: Continued

• SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment than borrowers that obtained larger loans. This safe harbor will also promote economic certainty as PPP borrowers with more limited resources endeavor to retain and rehire employees. In addition, given the large volume of PPP loans, this approach will enable SBA to conserve its finite audit resources and focus its reviews on larger loans, where the compliance effort may yield higher returns.
Updates on IRS/SBA Regulatory Guidance of Note

Should I Repay the Loan in Full?

• 46. Question: How will SBA review borrowers’ required good-faith certification concerning the necessity of their loan request?

• Answer: Continued

• 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. SBA has previously stated that all PPP loans in excess of $2 million, and other PPP loans as appropriate, will be subject to review by SBA for compliance with program requirements set forth in the PPP Interim Final Rules and in the Borrower Application Form. 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 based on its determination with respect to the certification concerning necessity of the loan request. SBA’s determination concerning the certification regarding the necessity of the loan request will not affect SBA’s loan guarantee.21

Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application

**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)).
Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application

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

a. the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019;

b. the average number of FTE employees on payroll per month employed by the Borrower between January 1, 2020 and February 29, 2020; or

c. in the case of a seasonal employer, the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive twelve-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.
Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application

**Nonpayroll:** 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.
Documents that Each Borrower Must Maintain but is Not Required to Submit

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, firings for cause, voluntary resignations, and written requests by any employee for reductions in work schedule.

d. Documentation supporting the PPP Schedule A Worksheet “FTE Reduction Safe Harbor.”
Documents that Each Borrower Must Maintain but is Not Required to Submit

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.
Overhead Rate Implications

  • States “Accordingly, to the extent that PPP credits are allocable to costs allowed under a contract, the Government should receive a credit or a reduction in billing for any PPP loans or loan payments, regardless of whether the PPP loan is forgiven.”
  • Stating that even if the loan is not forgiven, costs must be reduced.

• FHWA (Federal Highway Administration) and AASHTO are not required to follow the Defense Pricing guidelines.
Overhead Rate Implications

• It is expected that there are two possible scenarios for the loan forgiveness under FAR:
  • The DOT’s will require that an Other Direct Credit be provided to them via the billing system for the amount of the loan forgiveness
  • The cost items that related to the loan forgiveness will be credited to each specific cost objective.
    • The real question then becomes what happens to labor.
      • Some believe the labor piece should hit all indirect labor, however we believe that is counter-intuitive to the spirit of the law
      • We are suggesting, and other A/E Professional Consultants agree, that the credit should be allocated over Direct Labor and Indirect Labor based on the Utilization of the Entity for the 8 week period that the loan was in place (but the credit for DL is “ignored”).

• We are currently in discussions with AASHTO Audit Subcommittee members, ACEC National and DOT’s to determine the best route for our clients and ACEC members.
Questions?
Somerset Technology Advisory

• Helps clients design a successful remote workforce environment.
  • Evaluate your current work-from-home environment for security and data protection
  • Recommend and assist in implementing best practices for remote employees
  • Develop metrics and KPIs to measure remote work productivity
  • Develop policies and procedures for remote employees
Contact Information

Today’s Speakers:

Howard M. Cox,
CPA, CMA, CIA
Principal
317.472.2167
hcox@somersetcpas.com

Scott Sutton,
CPA, CDA, MSA
Senior Manager
317.472.2273
ssutton@somersetcpas.com