

Paycheck Protection Plan LOAN FORGIVENESS

This information comes from the information provided by the Small Business Administration (SBA) as of 5/15/2020. The SBA has already announced that further regulations and guidance regarding the forgiveness application will be released.

- A. The most valuable feature of the PPP loan is the ability to have this loan converted into a nontaxable grant **IF CERTAIN CRITERIA ARE MET.**

A PPP loan may be forgiven to the extent that the loan proceeds are spent on qualifying expenses incurred and paid during an eight-week covered period commencing with the date on which the PPP loan funds are first disbursed.

1. **Qualifying Expenses**

- a. Payroll Costs. Payroll Costs are Payroll and Benefits

i. **Includes:**

- GROSS Compensation including vacation, sick ... pay – not reduced for any employEE’s federal income tax withheld or an employEE’s share of Social Security (FICA) and Medicare
- Allowance for dismissal
- Housing Allowance – SBA on 4/24/2020 clarified that payroll costs included a “housing stipend or allowance”
- Payroll up to \$ 100,000 annualized. Up to \$ 15,385 during the eight-weeks.
 - \$ 100,000 divided by 52 weeks a year multiplied by 8-week covered period = $\$100,000 / 52 \times 8 = \$ 15,385$
- State Unemployment Tax (State and Local Taxes)
- Benefits including health benefits (including dental and vision), pension payments, D & D insurance, cell phone reimbursement, whatever benefits your lender allowed.

ii. **Does NOT include:**

- Payments to an independent contractor – if you do not provide a W-2 to this individual at the end of the year the payments to that person are not included
- Payroll over \$ 100,000 annualized. (See above)
- Employ~~ER~~ER share of payroll taxes (Medicare and FICA))
- Payroll paid under the Family Medical Leave Act and Emergency Paid Sick Leave Acts
- Worker’s Compensation insurance payments

iii. **Unknown**

- Bonuses, raises, hazard pay, and other similar forms of remuneration unless
 - Part of a regularly scheduled compensation process
 - Are related to business needs
 - Are related to a change or increase in responsibilities

b. **Mortgage Interest**

- i. As long as the debt giving rise to the interest was in place on 2/15/2020.
- ii. Include debt on equipment – automobile and office equipment.
- iii. Interest ONLY. No Principal.
- iv. Does not include prepayments.
- v. The debt must be an obligation of the applicant – not a debt of another the applicant has been paying.

c. **Rent**

- i. As long as the rental agreement was in place on 2/15/2020.
- ii. Includes rent on equipment – automobile and office equipment.

- iii. The lease agreement must be an obligation of the applicant – not an obligation of another the applicant has been paying.
- iv. An aggressive position would be to treat an internal allocation between a church and a church owned preschool as rent.

d. Utilities

- i. As long as the utility services were in place on 2/15/2020.
- ii. Electricity, Gas, Water, Transportation, Telephone (this should include cellphone contracts on which your church is the contracting party) and internet service.
- iii. The SBA has not stated whether sewer, trash, cell phone allowance or allowance to internet for work at home are allowable expenses. I would think that cell and internet allowance would be Payroll Benefits.

2. Incurred and Paid

The instructions say that eligible payroll include payroll cost PAID and payroll costs INCURRED during the eight-week period.

- a. Payroll costs are incurred on the day that the employee's pay is earned.
 - i. When payroll is incurred but not paid during the eight-week period such costs can be included in the calculations as long as they are paid on or before the next regular payroll date.
 - ii. At the beginning of the eight-week period payroll may be paid which was not incurred during the eight-week period.
 - iii. In both these cases the church will need to count the number of days in the eight-week period that are in the pay period divided by the number of total days in the pay period. Multiply payroll expenses by the result.
- b. Payroll costs paid are considered paid on the day that paychecks are distributed or the date the payroll is supposed to be in the employee's bank account.

This means that payroll is paid to employees when they receive it and not on the date that funds are remitted to a payroll processing firm.

- c. Non-payroll-related costs are permitted to be included in forgivable expenditures so long as they are incurred during the eight-week period and paid on or before the next regular billing date, even if the billing date is outside of the eight-week period.

3. **Eight-Week**

The eight-week period actually means 56 days.

In the application we calculated 2 months of average payroll and benefits and added 25% for other expenses. The SBA in clarifying the forgiveness process announced that the time to use the funds it only includes eight weeks (56 days) and not two months.

4. **Disbursed**

The eight-week period starts and includes the date of disbursement (the date the funds are in your bank account).

B. Other Important Information

1. **Certifications**

Both the application and the forgiveness application include various certifications that attest that the information and forms submitted is true, correct, and complete in all material respects.

2. **Percentage Payroll and Benefits**

At least 75% of the PPP loan must be used for payroll (including benefits).
25% of the PPP loan can be used for the other approved expenses.

3. **Economic Injury Disaster Loan advance (EIDL)**

The CARES Act specifies that the PPP loan forgiveness amount is reduced by any amount of an EIDL advance your church receives. The PPP Loan Forgiveness Application addresses this by capturing the amount of your church EIDL advance and EIDL application number.

4. **What happens when the loan not fully forgiven?**

The PPP loan might not be fully forgiven for several reasons.

- a. Less than 75% of the funds are used for payroll (including benefits)
- b. If an employee's annual salary or hourly wages decline by more than 25%.

- c. If the FTE number decreases during the eight-weeks period as compared to a reference period.

There are two options if the loan is not forgiven in full.

- a. Repay the unforgiven part of the loan in full.

You may have to pay interest on the unforgiven part at 1% annualized rate from the date the loan was disbursed until the loan is repaid.

- b. Pay the unforgiven part over the remaining life of the loan.

The bank may calculate the monthly payments based on the original full amount of the PPP and not on the unforgiven balance.

5. Required Documentation

There will be documentation that will need to be submitted with your application for forgiveness and documentation that will need to be retained but does not need to be submitted. The documentation you must retain must be retained for a period of 6 year after the date the loan is forgiven or repaid in full. The documentation must be made available to an authorized SBA representative.

C. Potential Pitfalls

1. **Business Name** – Churches need to match their name on the forgiveness application with the original PPP loan application. If the church uses Fort Lauderdale on the original application, then using Ft. Laud will mean that the forgiveness could be denied or seriously delayed until it is corrected.
2. **Disbursement Date** – it is the date the funds were in your bank account, not the date on the loan note.
3. **Utilities** - does not specifically include cell phone or waste removal. If your church pays for cell phone, It would follow that the expenses should be included (especially during this time when we are using them to work from home) because some business do not have land lines. Waste removal expenses are just as much a utility as the others and in all definitions of “utility” (and I looked at 10) waste removal is included in the listing.