

# Prepare for PPP Loan Forgiveness Application

This presentation is developed to provide a general, non comprehensive review of PPP loan forgiveness. In the event of any inconsistency between this presentation and the CARES Act, the Paycheck Protection Program Flexibility Act of 2020, PPP IFRs, FAQs, Loan Forgiveness Applications and Instructions, and other PPP guidance (together, official guidance), the official guidance governs.

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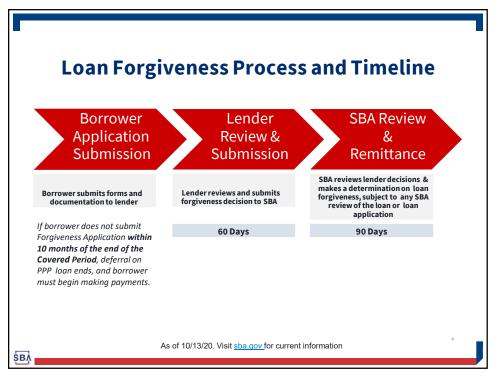
# **What this Session Will Cover:**

- PPP Forgiveness Application Process
- Forgiveness Criteria
- "Safe Harbor" or exemptions
- PPP Forgiveness Application Forms
- Required Information and Documents

As of 10/13/20. Visit sba.gov for current information.

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#### When to submit Your PPP Loan Forgiveness Application

- When borrower has used all the PPP loan proceeds for which it is requesting forgiveness.
  - It can be before the end of the 24-week covered period (example: Borrower used loan proceeds at end of 12-weeks)
  - Note: If borrower reduced annual salary or hourly wages by more than 25%, borrower must account for the reduction for the full Covered Period (either 8- or 24-week period beginning on the PPP Loan Disbursement Date). See IFR 6/26/2020 for more information

#### REMEMBER:

- Submit your forgiveness application to your lender using their instructions.
- If borrower does not submit Forgiveness Application within 10 months of the end of the Covered Period, deferral on PPP loan ends, and borrower must begin making payments.

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#### **Covered Period and Alternative Covered Period**

#### What is a covered period?

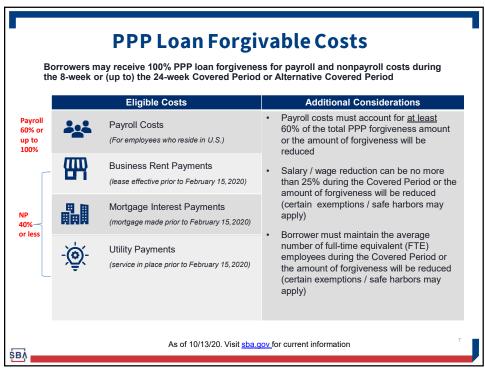
- Begins on the PPP loan disbursement date
- Up to 24-weeks (168 days)
  - · Borrower received loan disbursement on April 20
  - First day of covered period is April 20
  - · Last day of covered period is Sunday, October 4
- The 24-week period applies to all borrowers, but borrowers that received an SBA loan number before June 5, 2020, have the option to use an eight-week period

#### What is an alternative covered period?

- Borrowers with weekly or biweekly payroll schedule
- Begins on the first day of the first payroll cycle following PPP loan disbursement
  - Borrower received loan disbursement on Monday, April 20
  - First day of first pay period following loan is Sunday, April 26
  - First day of alternative covered period is April 26
  - The last day of alternative covered period is October 10

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### **Eligible Payroll Cost For Employees**

Includes employer's cost during covered or alternative covered period

- Gross salary, wages, commissions, cash tips, living stipends
  - vacation, parental, family, medical, or sick leave (except below)
  - allowance for separation or dismissal
- · Group health care, life insurance premiums paid by employer
- · Retirement contribution paid by employer
- State and local taxes assessed on employee's compensation including unemployment insurance tax

#### Does **NOT** include

- Qualified sick and family leave wages under Families First Coronavirus Response Act Paid Sick Leave Refundable Credit
- Employee's portion of payroll taxes, insurance premiums, retirement contributions
- Employer portion of federal payroll related taxes (FICA)
- Independent contractors engaged by the employer
- Worker's compensation insurance, temporary disability insurance

To be determined: Other types of union fringe benefits (i.e. union dues, fees) that are not within the defined eligible payroll costs for employees.

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Type of Business Legal Entity	Forgivable Compensation
C-corporation	Employee cash compensation, retirement, and health insurance contributions paid by employer/borrower
S-corporation	Cash compensation and retirement; does NOT include health insurance (IRS 1120S form lines 7 and 8)
General partners	2.5 x the average monthly 2019 self-employment net profit subject to self-employment tax (IRS 1065 schedule K-1 box 14a /12 months) x 2.5
Sole Proprietor/Self-Employed	2.5 x the average monthly 2019 self-employment net profit subject to self-employment tax (IRS 1040 Schedule C or F line 31 /12 months) x 2.5
Cash Compensation and self em	ployment net earnings are subject to Caps
LLCs should follow the instructio they file as a sole proprietor, a p	ns that apply to their tax filing situation, for example, whethe artnership, or a corporation
	cluding Schedule C or F filers and general partners, retiremen ons are included in their net self employment income and odded to their payroll calculation
See FAQ #8, page 5 of Frequently	y Asked Questions PPP Loan Forgiveness (10/13/20)

# **Cash Compensation Caps**

### **Employee Cash Compensation**

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

- 8-week Covered Period, total cap \$15,385 per employee
- 24-week Covered Period, total cap \$46,154 per employee (\$100,000/52 weeks) x 24 weeks = \$46,154

#### Owner-Employee/Self Employed/General Partner

- 8-week Covered Period: salary capped at \$15,385 per individual
- 24-week Covered Period: salary capped at \$20,833 per individual (\$100,000/12 months) x 2.5 = \$20,833

Any individual with less than 5% ownership stake in a C- or S-Corp PPP borrower is not subject to the owner-employee compensation rule

(IFR 8/24/20)

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### **Payroll Cost Considerations**

**Salary/Wages Reduction** for any employee of 25% or less during covered period or alternative covered period compared to the pre-COVID reference period are exempt from the reduction in loan forgiveness.

Refer to 3508 EZ or 3508 Application Instructions

**Timing:** To be eligible for forgiveness, payroll costs must be:

- 1. Incurred or paid during the Covered Period or Alternative Payroll Covered Period and cannot exceed 12/31/20.
- 2. Incurred before the Covered Period or Alternative Payroll Covered Period but paid during the Covered Period or Alternative Payroll Covered Period.
- 3. Incurred during the Covered Period or Alternative Payroll Covered Period but paid on or before the next regular payroll date after the Covered Period or Alternative Payroll Covered Period.

Refer to pages 2-3, PPP Loan Forgiveness FAQ (10/13/20)

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# Forgivable Nonpayroll Expenses

Total Nonpayroll expenses must be 40% or less of total forgiveness amount	
Business mortgage interest	<ul> <li>Interest on business mortgages on real or personal property made before 2/15/20. No prepayments or principal repayment.</li> <li>If mortgage was refinanced during covered period, it is eligible for forgiveness.</li> </ul>
Business rent or lease payments	Lease agreement prior to 2/15/20 and if renewed during covered period. Does not include any prepaid rent
Business Utility Payments	<ul> <li>Utility payments for the distribution of electricity, gas, water, telephone, or internet access for which service began before 2/15/20.</li> <li>A service for the distribution of transportation refers to transportation utility fees assessed by state and local governments.</li> </ul>
Interest on unsecured debt	Interest for unsecured loan incurred before 2/15/20 was eligible for PPP loan amount calculation, but it is not eligible for PPP loan forgiveness

- 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.
- Refer to Loan Forgiveness FAQ (10/13/20) pages 6 8

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# What nonpayroll costs are allowed for a home-based business?

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The borrower may include only the share of covered expenses that were deductible on the borrower's 2019 tax filings, or if new business, the borrower's expected 2020 tax filings. It does not include household expenses (IFR 8/24/20)

Nonpayroll costs (lines 2 to 4) on 3508 EZ forgiveness application do not apply sole proprietors, self-employed, and independent consultants who use 1040 Schedule C, line 31

(See Loan Forgiveness FAQ 10/13/20, page 6)

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#### **FTE Reduction Exceptions**

Full Time Equivalency (FTE): employee that works on average 40 or more hours per week.

If the average number of FTE employees per week during the covered period or the alternative payroll covered period is less than during the reference period, the total eligible expenses available for forgiveness is reduced proportionally by the percentage reduction in FTE employees.

FTE reductions in these cases do not reduce the Borrower's loan forgiveness.

- 1. Any positions for which the Borrower made a good-faith, written offer to rehire an individual who was an employee on 2/15/20 and the Borrower was unable to hire similarly qualified employees for unfilled positions on or before 12/31/20.
- 2. Any positions for which the Borrower made a good-faith, written offer to restore any reduction in hours, at the same salary or wages, during the Covered Period or the Alternative Covered Period and the employee rejected the offer. Borrowers are required to inform the state unemployment office of any employee's rejected offer within 30 days of the employee's rejection of the offer.
- 3. Any employees who during the Covered Period or the Alternative Payroll Covered Period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours.

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#### **Safe Harbors**

Two separate safe harbors exempt certain borrowers from any loan forgiveness reduction based on a reduction in FTE employee levels:

- If the Borrower, in good faith, is able to document that it was unable to operate between 2/15/20, and the end of the Covered Period at the same level of business activity as before 2/15/20, due to compliance with requirements established or guidance issued between 3/1/30 and 12/31/20, by the government related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.
- 2. If both of the following conditions are met:
  - a. The Borrower reduced its FTE employee levels in the period beginning 2/15/20 and ending 4/26/20; and
  - 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.

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# **PPP Forgiveness Application Forms**

PPP Lender's Application Form (Electronic) Go to your lender's website or link provided by lender

Download SBA instructions & form that applies to your business situation to prepare before going on Lender's website

- SBA 3508S Application Form PPP Loan for \$50,000 or less
- SBA 3508EZ Application Form

If Borrower can check one of the boxes on page 1 of the 3805EZ instructions

- SBA 3508 Application Form
  - If Borrower had reduction of salary or hourly wages for any employee by more than 25%
- ➤ **EIDL Advance** include amount received and EIDL loan number. The EIDL advance will be deducted from your PPP loan forgiveness amount by the SBA

As of 10/13/20. Visit <a href="mailto:sba.gov">sba.gov</a> for current information.

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# Who can use the SBA Form 3508EZ Forgiveness Application?

Answer: (See Form 3508EZ instructions, page 1)

- Self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the calculation of their average monthly payroll (when determining their eligible loan amount); or
- 2) Borrower did not reduce annual salary or hourly wages of any employee by more than 25% during Covered Period or Alternative Payroll Covered Period <u>and</u> did not reduce the number of employees or the average paid hours of employees between 1/1/20 and the end of Covered Period; or
- 3) Borrower did not reduce salary or wages of any employee by more than 25% during Covered Period or Alternative Payroll Covered Period *and* was unable to operate during Covered Period at the same level of business activity as before 2/15/20 due to compliance with HHS, CDC, or OSHA restrictions issued between 3/1/20 and 12/31/20 related to COVID-19.

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### **Borrower Documentation Requirements**

What documentation does the borrower submit to the lender with its forgiveness application?

In addition to the signed Forgiveness Application Form (SBA Form 3508, 3508EZ, 3508S, or lender equivalent) borrowers are generally expected to submit the following (see application instructions for specific details):

- 1. Payroll: Proof of payment
- 2. Nonpayroll: Proof of obligation and proof of payment
- 3. 3508 Only: PPP Schedule A and FTE Documentation
- 4. 3508EZ Only: FTE Information (if applicable)

For each form, there are certain documents that the borrower is required to maintain, but not submit. See Instructions to forms.

NOTE: All loans \$2 million and over will be subject to SBA loan reviews and additional documentation will be required.

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#### **Borrower Documentation – Non-Payroll**

#### **Documents Must Provide Proof of Eligible Costs**

Verify existence of eligible non-payroll obligations/services prior to February 15, 2020 and eligible payment during the Covered Period with the following if borrower includes nonpayroll expenses in the amount requested for forgiveness:

- **1. Business mortgage interest payments** amortization schedule and receipts.
- 2. Business rent or lease payments lease agreement and receipts.
- **3. Business utility payments** invoices from February 2020 and invoices paid during Covered Period and receipts.

See 3508S, 3508EZ and 3508 Application Instructions for other acceptable documents.

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#### **Other Criteria**

#### Related Business & Property Owner Guidelines (IFR 8/24/2020)

- Forgiveness eligibility criteria for rent or lease payments to a <u>related</u> <u>party</u>
- Any ownership in-common between the business and the property owner

#### Change in Ownership (SBA Procedural Notice 10/2/20)

 Required procedures for changes of ownership of an entity that has received PPP funds

Visit <u>www.sba.gov</u> or <u>www.treasury.gov</u> for the most up-to-date information on the Cares Act and COVID assistance for small businesses

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# Forms and Additional Information

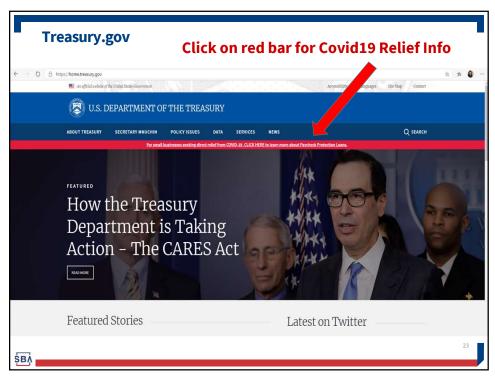
from Treasury.gov and SBA.gov (click on links below)

- Frequently Asked Questions on Loan Forgiveness (10/13/2020)
- Frequently Asked Questions (10/7/2020) on PPP program guidelines
- Loan Forgiveness Application Form 3508S Instructions (\$50,000 or less)
- Loan Forgiveness Application Form 3508S (\$50,000 or less)
- Loan Forgiveness Application Form 3508EZ Instructions
- Loan Forgiveness Application Form 3508EZ
- Loan Forgiveness Application Form 3508 Instructions (revised 6/16/2020)
- Loan Forgiveness Application Form 3508 (revised 6/16/2020)
- Frequently Asked Questions on EIDL Loans (9/14/2020)

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# **SBA RESOURCE PARTNERS - HAWAII**

Go to any SBA resource partner's website and schedule a free appointment with an advisor

Small Business Development Center Oahu, Kauai, Maui, East Hawaii, West Hawaii hisbdc.org

Patsy T. Mink Center for Business & Leadership (Women's business center on Oahu) mcblhawaii.org

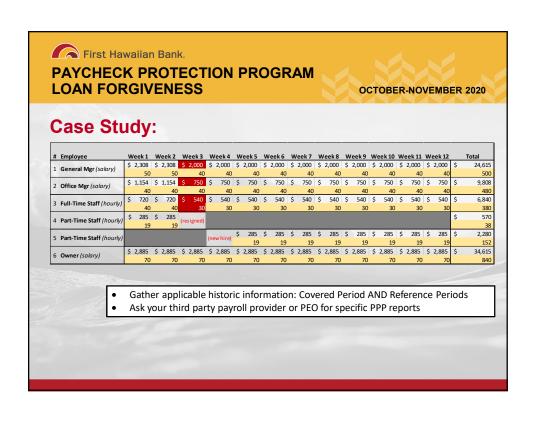
Veterans Business Outreach Center of the Pacific hilo.hawaii.edu/vboc/

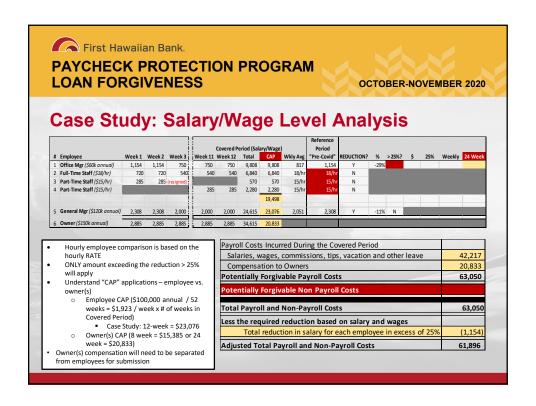
SCORE score.org

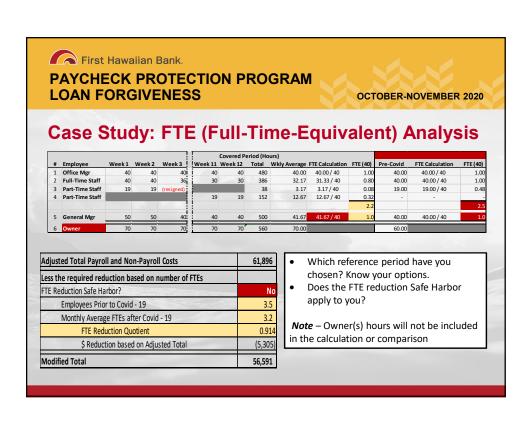
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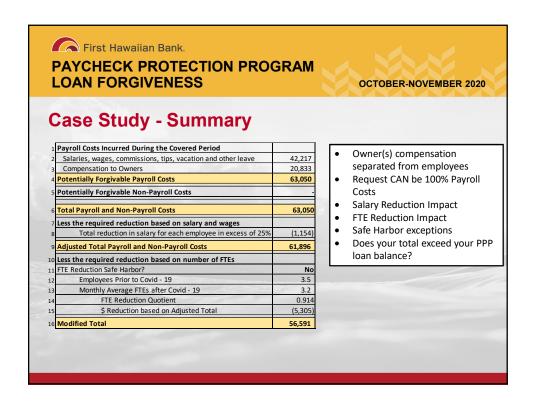
















# PAYCHECK PROTECTION PROGRAM LOAN FORGIVENESS

**OCTOBER-NOVEMBER 2020** 

#### **Tips for Success**

- Discuss/plan with your CPA often.
- Talk to your 3rd party payroll provider to obtain PPP specific reports.
- Maintain/obtain digital copies of your documentation.
- Use Google chrome as your internet browser.
- Complete your forgiveness application in our portal BEFORE you upload any documents.

