

Interim Final Rule (IFR) on PPP Loan Forgiveness

1. Forgiveness Process

- Lender has 60 days from completed application to issue decision to SBA; SBA will then pay lender no later than 90 days after the lender issues the decision. So lender makes the decision first and then SBA can audit and determine if certified and done correctly.
- SBA will deduct EIDL grant/advance amounts from forgiveness amount.
- If SBA determines borrower was ineligible for PPP based on law in effect at time of borrower's application, loan will not be eligible for forgiveness.
- Lender is responsible for notifying borrower of forgiveness amount.
- If only a portion of loan is forgiven, or if no portion is forgiven, remaining balance due must be repaid on or before two-year maturity of the loan.

2. Payroll Costs

- **Furloughed employees:**
 - » payroll costs considered incurred based on a schedule established by the borrower (typically, the day the employee would have been scheduled to work)
 - » If a borrower pays furloughed employees their salary, wages, or commissions during the covered period, payments eligible for forgiveness as long as they don't exceed annual salary of \$100k (prorated for the covered period)
- **Bonus and hazard pay** are included in loan forgiveness (assuming total compensation doesn't exceed \$100k prorated) – because these amounts are a “supplement” to salary or wages and are therefore a similar form of compensation.
- **Owner-employees:** limited to 2019 employee cash compensation plus retirement and health care contributions made on their behalf. Confirms – health benefits for owner-employees are eligible for forgiveness, as are retirement contributions, not to exceed 2019 amounts.

3. Self-Employed Individuals and Partners: Total forgiveness requested for owner-employees and self-employed individuals cannot be more than the lesser of 8/52 of 2019 compensation or \$15,385 per individual in total, across all businesses.

- No additional forgiveness provided for retirement or health insurance contributions for self-employed individuals (both sole proprietors and partners), as expenses are paid out of net self-employment income.

Paycheck Protection Covid

4. Non-Payroll Costs

- **Paid and incurred.** Confirmation that you can prorate over days through covered period.
- **Example:** Borrower's covered period begins June 1 and ends July 26. Borrower pays its July electricity bill on August 10 (the next regular due date). Borrower may seek forgiveness for the portion of its July bill through July 26, because that amount was incurred during the covered period and paid on the next regular billing date.
- **Interest expense:** Advance Payments of interest on mortgage obligations are NOT eligible for loan forgiveness since CARES Act language specifically excludes prepayments.

5. Reductions to Forgiveness Amounts:

- **FTE Count**

- » **Situations where a change in staffing level does not reduce forgiveness:**

1. employees who were laid off (and offered to be rehired), employees who were furloughed/subject to reduced hours (and offered to be restored to regular schedule), IF:
 - Borrower makes written offer to rehire employee or restore hours during the covered period (or APCP)
 - Offer was for same pay or same wages and hours earned by employee in last pay period prior to separation or reduction;
 - Employee rejects the offer;
 - Borrower maintains records documenting the offer and rejection; and
 - Borrower informed the applicable state unemployment insurance office of employee's rejected offer of reemployment within 30 days of employee's rejection.
2. Employees who were fired for cause or who voluntarily resigned. (procedure: count the employee at the same FTE value as before the termination/reduction)
 - Must maintain documentation to demonstrate employee fired for cause, voluntarily resigned, or voluntarily requested schedule reduction, and must provide upon request.

- » **Aggregate full-time equivalent employees:** regardless of calculation method, add together all full-time employees (working 40 hours per week and assigned an FTE value of 1.0) and all part-time employees (anyone assigned an FTE value of less than 1) to get total FTE number.

- » **Reminder:** reduction in FTEs is percentage based and there is no "25% grace period" like there is for employee compensation.

- » **Calculating FTEs:** method must be used consistently throughout all applicable FTE calculations. Calculation is done based on each employee's average weekly hours throughout the covered period.

1. Simplified method to calculate FTEs: employees who work average 40 hours per week assigned 1.0; employees who work less than 40 hours per week assigned FTE value of 0.5.
2. Full calculation of FTEs: Hours worked divided by 40 (capped at 1.0)

- » **Full-time equivalent** based on a **40-hour** work week
- » **Safe Harbors:**
 1. If FTEs for pay period that includes 2/15/20 > average FTEs between 2/15/20 and 4/26/20, the employer is **eligible for this safe harbor**
 - If **NO** reduction in FTEs or employees' average paid hours, comparing 1/1/20 and the end of the Covered Period, Borrower deemed to have **NO FTE** reduction
 2. If FTEs were reduced during the covered period compared to beginning of 2020, borrower is **exempt from forgiveness reduction** if their FTEs as of 6/30/20 are >= than FTEs for the pay period including 2/15/20 (**i.e. reductions rehired**)

- **Salary and Wages Calculation**

- » Salary reduction calculation is on per employee basis-not aggregate
 - » If an employee's salary is reduced, the first 25% is excluded from the forgiveness reduction
 - » Dollar-for-dollar reduction. Example: A borrower reduced a full-time employee's weekly salary from \$1,000 per week during the reference period to \$700 per week during the covered period. The employee continued to work on a full-time basis during the covered period with an FTE of 1.0. In this case, the first \$250 (25 percent of \$1,000) is exempted from the reduction. Borrowers seeking forgiveness would list \$400 as the salary/hourly wage reduction for that employee (the extra \$50 weekly reduction multiplied by eight weeks).
- **No Double Penalty:** If a borrower had to reduce FTE hours for an employee they would have a decline in FTE and salary/wage. However, the applicant will not be double hit in reduction. As long as the reduction in salary is attributed to FTE reduction (hours) then they are NOT required to count the reduced wages as well.

Contact a K-Coe advisor with questions regarding the PPP loan forgiveness application, record-keeping, or calculations under the SBA's guidance.



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