

PPP FORGIVENESS: 7 COMMONLY ASKED QUESTIONS AND ANSWERS

by John Kettering

The Paycheck Protection Program (PPP) provided much needed assistance to small businesses affected by COVID-19. While the PPP is a small business loan program within Section 7(a) of the Small Business Act, PPP loans are subject to payment deferral and immediate forgiveness if the borrower uses the funds in an authorized manner. As loan forgiveness is the highlight of the program for most small businesses, it is important to understand the requirements for forgiveness. Here are answers to seven of the most asked questions regarding loan forgiveness.

1. I received a loan under a Small Business Administration (SBA) Program in response to COVID-19. Will it be subject to forgiveness?

Not necessarily. Only PPP loans are subject to forgiveness. Other SBA loans, including an Economic Injury Disaster Loan (EIDL), are generally not subject to forgiveness even if used in response to COVID-19. However, there may be an exception for certain portions of EIDL funds or if you received an EIDL and then later refinanced those proceeds into a PPP loan.

2. How must the business use the PPP funds to be eligible for forgiveness?

A PPP loan may be forgiven if the borrower used those funds to maintain employment and salary levels during the eight to twenty-four weeks (the “Covered Period”) after receipt of funds. A borrower may also use PPP funds for limited non-payroll expenses such as rent payment or utilities. However, a borrower cannot use more than 40% of its loan funds for non-payroll expenses.

3. When can I apply for forgiveness?

A borrower can apply for forgiveness once they have used all loan proceeds for which they are requesting forgiveness. A borrower cannot request forgiveness on proceeds not yet used. Under the terms of the PPP, a borrower may request forgiveness at any point prior to the maturity date of the loan.

4. When will payment deferrals under my PPP loan end?

Since the PPP is a loan intended to promote economic recovery, Congress deferred monthly payments on any PPP loan for ten months after the end of the Covered Period. The Covered Period is either:

- (1) the 24-week period beginning on the date the borrower received the PPP funds, or
- (2) if the borrower received its PPP funds before June 5, 2020, the borrower may elect to use an eight-week period.

For example, if the borrower is using a 24-week Covered Period and received PPP loan proceeds on May 1, 2020, the first day of the Covered Period is May 1, 2020, and the last day of the Covered Period is October 16, 2020. No Covered Period may extend beyond December 31, 2020. The borrower then has ten months after the end of their Covered Period to apply for loan forgiveness before payment deferral ends. If the borrower fails to apply for forgiveness within ten months after the end of the Covered Period (or by August 16, 2021, in the above example), the borrower will need to begin making monthly payments to their lender.

5. Can a business receive full forgiveness of its loan?

Yes. If the borrower uses all PPP funds in an authorized manner, the loan is subject to full forgiveness and there will be no requirement to repay the lender. If the business failed to maintain employment or payroll at the necessary levels, the loan may be subject to only partial forgiveness.

6. What information is necessary for inclusion in a PPP loan forgiveness application?

A business must provide documentation to show that it used the PPP funds in the manner authorized by the PPP. For payroll costs, this generally includes bank account statements, third-party payroll documents, tax forms, and payment receipts for health insurance and retirement account contributions. For non-payroll costs, this would include documents such as lease agreements, mortgage payments, utility bills, and supporting receipt documents.

7. How do I apply for forgiveness?

A business must apply for forgiveness through the lender who funded the PPP loan rather than through the SBA. Lenders may use either standard SBA forms or their own forgiveness application forms. Under the standard SBA forms, borrowers receiving \$150,000 or less may use SBA Form 3508S. Borrowers may use SBA Form 3508EZ if their loan exceeded \$150,000 and their business was unable to operate at pre-COVID levels due to government orders. All other borrowers may use SBA Form 3508. A Lender's form may differ slightly from the standard SBA Form but will seek largely the same information. Make sure to contact your lender if you have any questions and ensure you are using the correct form.

Many businesses are now in the ten-month “deferral period” following spending all PPP proceeds but before the start of monthly repayments. It is critical that a business makes a timely, and correct, forgiveness application to your lender before these payments become due.

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