



Client Alert 10/2/2020

The PPP Loan Forgiveness Process

The Small Business Administration (the “SBA”) began providing small business owners with loan funding through its Paycheck Protection Program (“PPP”) to cover operating expenses in the face of COVID-19. The most important feature of the PPP is to allow 100% forgiveness of the loan. Now, as many small businesses are nearing the end of the PPP covered period, it is crucial that borrowers adhere to the following SBA guidelines to receive full forgiveness:

Eligible Costs

Only operating costs that fall under these categories may be eligible for full forgiveness:

1. Payroll Expenses
 - a. Payroll costs must account for at least 60% of the borrower’s PPP loan amount,
 - b. Salary or wages may only be reduced by 25% during the covered period, and
 - c. The average number of full-time equivalent employees prior to the loan disbursement date must be maintained.

2. Business Rent or Mortgage Payments

- a. Lease effective date must be prior to February 15, 2020.
- b. Mortgage interest payments must be incurred prior to February 15, 2020.

3. Utility Payments

- a. Service must be installed prior to February 15, 2020.

Covered Period

The PPP funding must be used within either an 8-week or 24-week period from the date of the PPP loan disbursement, depending on what period the borrower elects to use (the “**Covered Period**”). In no event, however, may the covered period extend beyond December 31, 2020.

Forgiveness Application

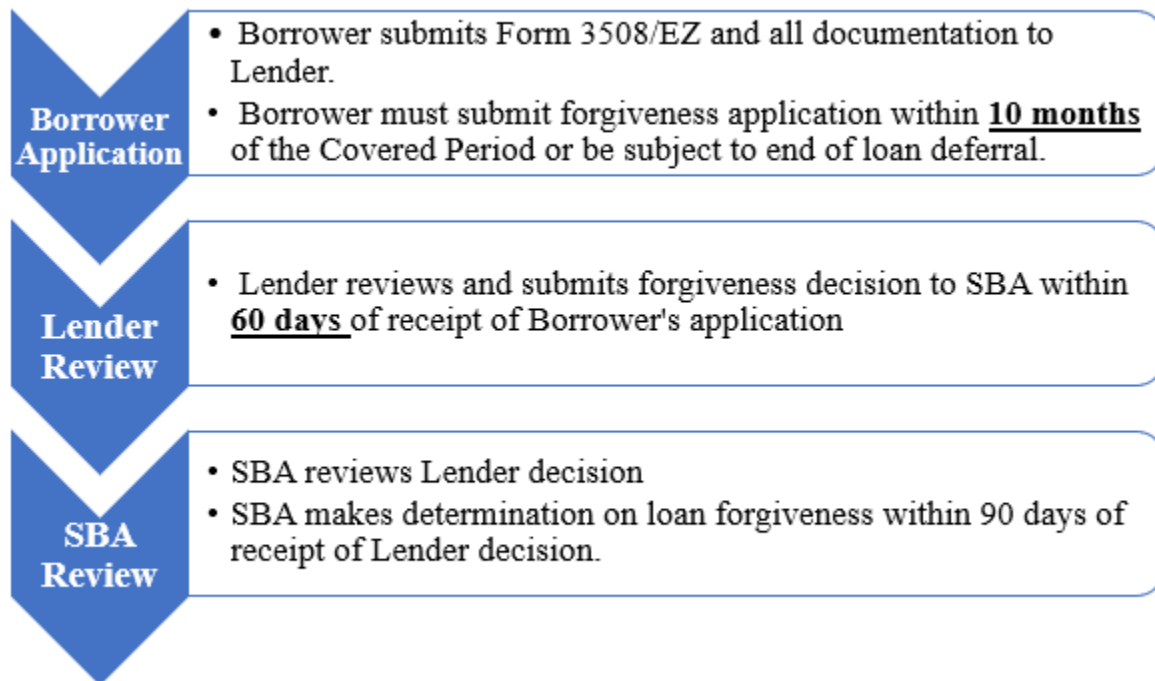
Borrowers must submit the PPP Forgiveness Application to its lender within 10 months of the end of the Covered Period to be eligible for forgiveness. The borrower must submit the following documents to the lending institution:

1. Forgiveness Application (SBA Form **3508** or Form **3508EZ** for self-employed individuals and independent contractors)
2. Proof of Payroll Payments
 - a. Bank statements
 - b. Third-party payroll report (i.e., ADP reports)
 - c. Tax forms
 - d. Payment receipts of any employer benefit plans
3. Proof of Nonpayroll Payments
 - a. Mortgage amortization schedule and receipts
 - b. Business lease agreement and receipts
 - c. Utility invoices
4. PPP Schedule A and FTE Documents (Form **3508** only)

Upon receipt of the completed application, the lending institution will review the application and submit a decision to the SBA within 60 days.

The SBA will then review the lender's decision, provide a final determination on the forgiveness amount, and remit payment to the lender within 90 days if forgiveness is granted.

FORGIVENESS PROCESS AND TIMELINE



Partial Forgiveness

If the SBA determines that the borrower only qualifies for partial forgiveness, a forgiveness payment will be remitted to the lending institution. The lender must then notify the borrower of the:

- Amount of forgiveness payment received, and
- Due date of borrower's first payment.

If the lender and SBA determine that a PPP loan is not forgiven in full (because of a lapse in payroll, employee count, or wage rates), the remaining balance due on the PPP loan will be repaid by the borrower. The lender will continue to service the loan, but the borrower must

repay the remaining loan balance at an interest rate of 1% within two or five years, depending on whether the PPP Loan was made before or after June 5, 2020.

Note that a borrower may appeal a final SBA loan review decision with the SBA's Office of Hearings and Appeals.

EIDL and PPP Forgiveness

If a borrower also receives an SBA Economic Injury Disaster Loan ("EIDL") in addition to PPP funding, the SBA is required to reduce the borrower's PPP loan forgiveness by the amount of the EIDL advance. The SBA will deduct the amount of the EIDL against the forgiveness amount remitted by the SBA to the lending institution.

If you have additional questions, please contact our Partner, Cherylyn Harley LeBon.

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