

First Merchants Bank

SBA Paycheck Protection Program Loans

LOAN FORGIVENESS PROCESS

Now that you have received a Paycheck Protection Program (“PPP”) loan from First Merchants Bank (FMB), it’s important to understand how the loan might be forgiven. We are providing you with this document, in addition to the SBA’s PPP Loan Forgiveness Application (<https://www.sba.gov/document/sba-form--paycheck-protection-program-loan-forgiveness-application>), so you know how to request loan forgiveness and to assist you in preparing to submit the necessary documentation. The information below is from the CARES Act, the United States Treasury and the Small Business Administration.*

UPDATED INFORMATION: The SBA published the PPP Loan Forgiveness Application on May 15, 2020. Along with the forgiveness application instructions, four new concepts were introduced. (1) Alternative Payroll Covered Period that aligns with the borrower’s regular payroll cycles. (2) Payroll and non-payroll costs paid or incurred are generally eligible for forgiveness. (3) Two methods for calculating average full-time equivalency (FTE) during the Covered Period or the Alternative Payroll Covered Period. (4) An expansion of the FTE Reduction Safe Harbor that now includes employees that were fired for cause, voluntarily resigned, or voluntarily requested and received a reduction of their hours. Find more information on these concepts at the above link to the SBA’s PPP Loan Forgiveness Application.

1. **What amounts are eligible for forgiveness?**

The amount of loan forgiveness can be up to the full principal amount of the loan and any accrued interest. That is, the borrower will not be responsible for any loan payment if the borrower uses all of the loan proceeds for forgivable purposes and employee and compensation levels are maintained. The actual amount of loan forgiveness will depend, in part, on the total amount of payroll costs, payments of interest on mortgage obligations incurred before February 15, 2020, rent payments on leases dated before February 15, 2020, and utility payments under service agreements dated before February 15, 2020, all over the eight-week period following the date of the loan (the “Covered Period”) or the eight-week period that begins on the first day of the first pay period following the PPP Loan Disbursement Date (the “Alternative Payroll Covered Period”). However, not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs and eligible payroll does not include amounts exceeding \$100,000 per person on an annual basis, prorated over the Covered Period.

2. **When can I submit an application to have all or a part of my loan forgiven?**

You can submit the PPP Loan Forgiveness Application at any time after the Covered Period. FMB has 60 days from the date of your request to make a decision on forgiveness.

3. **What documents do I submit to FMB to request forgiveness of my loan?**

Borrowers should keep detailed records of how they spent PPP loan funds so that when they seek forgiveness, they can easily provide the following documentation to FMB and the SBA:

- a. Submit the Forgiveness Application.
- b. Submit a document that shows a breakdown of the amount of eligible expenses. Show the total of: payroll costs, mortgage interest payments on real or personal property, business

utility payments and business rent.

- c. Submit a document that shows your calculation of the loan forgiveness amount (see Item 4 below).
- d. Submit supporting documentation for your total payroll costs – tax reporting forms (e.g., IRS Form 941), payroll processor records or other supporting payroll documentation (*For details, see: <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>*).
- e. Submit supporting documentation on interest paid on mortgage or real or personal property obligations that were incurred before February 15, 2020.
- f. Submit supporting documentation on rents paid that were under lease agreements in force before February 15, 2020.
- g. Submit supporting documentation on utilities for which service began before February 15, 2020.

Borrowers will be required to certify that the documents are true and correct and that the amount for which forgiveness is sought was used on forgivable expenses.

4. **How is the amount eligible for forgiveness calculated?**

- a. **Forgivable Purposes.** PPP loan proceeds may be used only for certain allowable purposes. Those purposes are: payroll costs, interest on mortgages securing real or personal property (incurred before February 15, 2020), rent (for leases in force before February 15, 2020) and utilities (for services that began before February 15, 2020).
- b. **Eight-Week Period.** Only costs incurred or payments made for forgivable expenses *during the eight-week period beginning on the date of the PPP loan advance or on the first day of the first pay period following the date of the disbursement of its PPP loan advance* will result in forgiveness.
- c. **75% Payroll Cost Minimum.** The amount forgiven for non-payroll costs is limited to 25% of the amount forgiven. This is designed to be consistent with the requirement that no more than 25% of the loan be used for non-payroll costs, i.e., at least 75% of the loan must be used for payroll costs incurred and made over the eight-week Covered Period.
- d. **Reductions.** The forgiven amount is also reduced for businesses that reduce their headcount and/or reduce salaries/wages paid to employees.
 - **Headcount.** If a business' average full-time equivalent employees during each month of the eight-week period is less than the average during either the period from February 15, 2019, to June 30, 2019, or January 1, 2020, to February 29, 2020 (at the business' choice), the forgiven amount is reduced by the percentage reduction in headcount. In other words, if headcount is reduced by 10%, the forgiven loan amount is also reduced by 10%.
 - **Salary/Wages.** With respect to employees earning less than \$100,000, the amount forgiven is reduced by the amount of any reduction in salary/wages during the eight-week period that exceeds 25% of the employee's salary/wages for the most recent full quarter.
 - **Rehiring.** Importantly, the headcount and salary reductions discussed above will not include any reduction between February 15, 2020, and April 27, 2020, *if* the business remedies the reduction on or before June 30, 2020. This is designed to incentivize businesses to rehire laid-off and furloughed employees.

5. ***What happens to the portion of the PPP loan that is not forgiven?***

The unforgiven portion of the PPP loan will accrue interest at 1% and have a maturity date that is 2 years from the date of the Note you signed. FMB will provide you with a statement indicating the amount of principal and interest due every month.

6. ***What happens if PPP loan funds are misused?***

The SBA recently published a reminder to PPP loan recipients that they had to certify in their PPP loan Application that PPP funds were “necessary to support ongoing operations”. If a borrower cannot substantiate that need, it has until May 18, 2020, to return the loan funds without penalty.

In addition, if you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud. If one of your shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.

***THE FORGIVENESS PROCESS AND FORMS HAVE NOT BEEN FINALIZED AND THE INFORMATION PRESENTED ABOVE IS SUBJECT TO THE REGULATIONS UNDER THE PAYCHECK PROTECTION PROGRAM, AS MAY BE REVISED BY THE UNITED STATES TREASURY AND THE SMALL BUSINESS ADMINISTRATION. NO ASSURANCES CAN BE PROVIDED THAT FUTURE INTERPRETATIONS ON THE APPLICATION OF THE CARES ACT, RULES, AND GUIDANCE WILL NOT DIFFER FROM THE METHODOLOGIES DESCRIBED ABOVE. THE SBA HAS INDICATED THAT FURTHER GUIDANCE ON FORGIVENESS, INCLUDING SEVERAL AMBIGUITIES IN THE LANGUAGE, IS FORTHCOMING.**