

*The Skinny on What You Need to Get a Small Business
(under 500 employees), Forgivable Loan
As of March 30, 2020*

The Payroll Protection Act, which is part of the larger CARES Act is what we'll be summarizing and surmising.

For reasons that are unimportant to this summary, Kevin has read the text of this bill counting earlier drafts and final legislation at least 30 times and is an unintended and undesired "expert" on it. This isn't a brag or as his twenty something offspring would say, a "humble" brag, just an artifact of the crazy times we live in.

If you have specific questions for your charity that this doesn't answer (and it won't answer everything and everything isn't even answerable as we write this) you can reach us at the emails below.

We hope this guide is helpful. Equally, we hope you'll share your experiences in seeking aid with us.

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A CAVEAT: Reader beware. This is our guidance that comes either directly from the law and our read of it or, in some cases, what we're hearing and seeing. The legislation is massive, there are some inconsistencies and oddities of language that will get cleared up over time. You should be double checking with your lawyers, accountants and bankers every step of the way.

How to Apply for the Money

The only way to apply, which is ultimately a plus, is through commercial

lenders already setup to make SBA 7(a) loans, which are the traditional loans made by the SBA.

Having commercial lenders as the frontline financiers on this is a plus because it greatly mitigates the otherwise massive bottleneck of having to go directly through the SBA. Just Google SBA lender or better yet, check to see if a bank where you have an existing relationship is already an SBA lender, chances are good they are.

We've heard that banks will prioritize their own customers so more reason to start with the ones that you know and that know you. The SBA officially has 15 days to issue what is called "guidance". This is mostly code for a form, process and instructions to the commercial lenders. These banks won't piss with their pants on fire without a form and if you call them – we have – they will all tell you they can't do anything until they get this guidance. We've also heard rumor of the guidance coming this week.

There will be high demand for these loans. **Early bird gets the worm and all that.**

So, get a head start on getting your documentation in order, which we've summarized below. The official guidance may modify our suggested list a bit but it's a solid first start and won't be a waste of your time.

Key Points of this Loan/Grant Effort

- There are zero fees to your organization or business to get the loan
- No personal guarantees
- No collateral
- Portions of the "loan" money can be forgiven – i.e. it is a grant, not a loan at all.
- Any portion of the loan amount that stays as loan dollars has a maximum interest rate of 4% (your lender could lower this and it is worth negotiating a bit)
- There is a deferment of loan payments and interest for a minimum of 6 months and a max of 12 months.

Determining Your Loan Amount:

- Less of – \$10 million OR 2.5 times the average, monthly “Payroll Costs” for the 12 months prior to your loan date.
- Importantly, Payroll Cost has taken on a broad definition and includes the following:
 - W2 wages
 - 1099 compensation
 - Group health care benefits (i.e. monthly premiums paid by employer)
 - Retirement benefits
- What doesn’t count in Payroll cost:
 - Compensation in excess of 100k. This means any employee (or 1099) comp that exceeds 100k gets capped at \$8,333 for each monthly tally.

Forgiveness

This is about converting your loan to a grant. You have eight weeks (from the date of the loan) to spend the money and have it considered for forgiveness.

[Technically, we’ve seen language from the Senate subcommittee that suggests borrowers can pick any eight-week period between Feb 15, 2020 and June 30, 2020 to use to get loan dollars forgiven. Some organizations/businesses may want or need to apply loans retroactively but likely most will use the eight weeks that start with loan funding date.]

Every dollar you spend during this eight-week period will be forgiven as long as it is a qualifying expense and you maintain certain FTE (and salary) requirements.

Qualifying Expenses

- Payroll Costs (as defined above) plus;
- Rent and utilities
- Mortgage interest and other interest on debt (if the debt existed before February 15, 2020)

Your FTE and Salary Requirement

FTE: You need to calculate a ratio.

Numerator: Your **average** number of FTEs per month for the eight week period you are spending the loan dollars.

Denominator: Your choice based on whichever yields a smaller number

- Average number of FTEs per month between February 15, 2019 – June 30, 2019
- Average number of FTEs per month for January and February 2020

As long as your ratio is 1 (or higher, though you don't benefit from it) then every dollar you spend on qualifying expenses is forgiven. If your ratio is less than one then you only get your dollars times the ratio forgiven. For example, if your ratio is 1/3, you only get \$.33 of every dollar forgiven.

There is a similar reduction in your forgiveness if you reduce salary for any employee during the eight week period that is more than 25% of what they were earning total salary or wages of any employee during the covered period you selected for your denominator.

Rehire Caveat: The FTE (and salary) pre/post loan described above applies to any nonprofit or business. If you've already laid off folks and decide to now rehire them, the rehiring organization only has to show that by June 30, 2020, your FTE count matches your pre-loan FTE count but it doesn't need to be a running average, you can hire those people theoretically on June 30 to get your numerator count up and it will qualify.

NEXT STEPS

This is *The Agitator* list. No official list yet exists. This is definitely a good start but add to it or delete as you see fit.

Loan Amount

- Excel of Monthly expenses for April 1, 2019 through April 1, 2020. Make the columns the months and the rows the expense items. More rows is probably better.
 - W2 wages

- 1099 wages
 - Paid time off for each employee
 - Health insurance premiums
 - 401k company expense
- Supporting documentation
 - Do the flipping math for them by tallying each month, computing the average across the 12 months and multiplying by 2.5

FTE Count:

- Your average, FTE count from Feb 15, 2019 through June 30, 2019 or Jan/Feb 2020 (this is your denominator)
- You may have until the day/date that you are asking for forgiveness to calculate the numerator. However, it is possible, maybe even likely that the banks will be asking you to estimate your numerator because the legislation provides them opportunity to submit paperwork to the SBA that shows the anticipated (not actual) loan forgiveness amount and request to get paid for that amount ahead of time.

Roger and Kevin