

To have your loan forgiven, it is important that you closely follow the parameters outlined by the SBA which we have summarized below. **It is also important that you honor the spirit of the law: To meet the urgent needs of businesses struggling financially as a result of the pandemic.**

The entire amount of this loan, plus accrued interest, has the potential to be forgiven. Here is a general summary of how that process works and the steps you must take to be eligible based on information that the SBA has provided to date. Please read the entirety of this document and consult your financial and/or legal advisor(s) if necessary so you are absolutely clear about the forgiveness parameters.

### **The Basics**

Both principal and accrued interest can be eligible for forgiveness if funds are used for the allowed purposes. The actual amount of the forgiveness will depend, in part, on your total amount of payroll costs, the percentage of FTEs you have retained and other allowable purposes.

These are the forgivable uses. If you spend loan proceeds in these ways, you may be eligible for forgiveness. Forgiveness can be reduced in part or completely depending on the use of funds, timing of that use and employee retention.

- **Funds must be spent within an eight- or 24-week covered period.**
  - For loans originated before June 5, 2020, borrowers have the option of using any covered period between eight and 24 weeks.
  - The covered period could start the day you receive the funds.
  - Payroll costs are considered paid on the day paychecks are distributed or the day you originate an ACH transaction for direct deposit. Payroll costs are considered incurred on the day pay is earned.
  - Payroll costs incurred but not paid during the last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date.
  - See the application instructions ([First Draw](#) | [Second Draw](#)) for full details.
- **At least 60% of proceeds must be spent on payroll costs.**
  - Based on full employment levels as of Feb. 15, 2020 at no less than 75 percent of 2019 annualized wages or seasonal calculation (up to \$100,000 per person)
  - For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the covered period.
  - Count payroll costs that were both paid and incurred only once.
  - For information on what qualifies as payroll costs, see the application instructions ([First Draw](#) | [Second Draw](#)) and the [Treasury Department's interim final rule documents](#).
- **No more than 40% of proceeds can be spent on other covered costs.**
  - Mortgage interest and lease payments

- Payments of interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020
    - Business rent or lease payments pursuant to lease agreements for real property or personal property in force before February 15, 2020
  - Utility costs
    - Business payments for a service for the distribution of electricity, gas, water, transportation, telephone or internet access for which service began before February 15, 2020
  - Interest payments on any other debt obligations incurred prior to Feb. 15, 2020
  - Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020
  - Operations expenses including software, cloud computing, human resources and accounting needs
  - Property damage due to public disturbances during 2020 not covered by insurance
  - Supplier costs pursuant to a contract, purchase order or order for goods that was in effect prior to taking the loan and was essential to operations at the time
    - Supplier costs for perishable goods can be made before or during the life of the loan.
  - Worker protection expenses like PPE and other adaptive costs to help comply with federal health and safety guidelines or equivalent state and local guidance related to COVID-19
- **Safe harbor provision on staffing levels**
  - By no later than 06/30/2020?, restore full-employment and salary levels for any changes made between Feb. 15, 2020 and April 26, 2020.
    - Some or all of these dates could change in the near future.
  - Full restoration of FTEs does not necessarily mean they must be filled by the same employees. New hires will be allowed.
  - In determining the rate of forgiveness reduction based on FTEs, the SBA will allow borrowers to choose which period to use as a baseline for employment level comparisons: Feb. 15 to Dec. 31, 2019, or Jan. 1 to Feb 29, 2020.
    - Some or all of these dates could change in the near future.
  - The SBA allows for more time to rehire or an overall an exception in FTE restoration if:
    - you made a good faith effort to rehire workers but those offers were declined
    - the employees who left were fired for cause, voluntarily resigned or voluntarily requested and received a reduction in hours
    - you do not require as many FTEs because you are unable to return to same level of business activity as before the pandemic
    - No matter what, documentation is key. Thoroughly document:
      - all efforts to rehire employees who choose not to accept

- all dismissals for cause, voluntary resignations and reductions in hours
- all financial circumstances that lead to an inability to restore full FTE levels

Any use of funds for purposes other than those described above can make you ineligible for full forgiveness. You will then owe part or all of the loan proceeds, plus interest, as you would any other loan. Intentional misuse of PPP funds will lead to required repayment in full and additional liability, possibly including criminal charges for fraud. The SBA will also have recourse against owners, shareholders, members and partners of that business.

### **Certification of Need**

At the time of application, all borrowers certified that that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant." The SBA may investigate and require proof of need as part of the forgiveness process. This is an attempt to shape the letter of the law to better reflect its intent, which is to provide relief for small businesses so they may keep staff on payroll and pay essential bills during the crisis.

- **For Loans Under \$2 Million**
  - The SBA will assume this certification was made in good faith and the borrower did not have ready access to other sources of capital at the time of application.
  - However, documentation requirements remain intact and these loans are subject to review by the SBA.
- **For Loans Over \$2 Million (First draw PPP loans only)**
  - All loans over \$2 million will be subject to a full review by the SBA to ensure this certification was made in good faith.
  - Borrowers should take time to carefully consider the certifications made at the time of application and determine the best path forward for their company.
  - Borrowers who are found to have had ready access to capital, including many publicly traded companies, will be asked to pay back the loan, plus any accrued interest, immediately.
  - If this is done, the matter will be closed and the SBA will not pursue administrative enforcement or refer the borrower to other governmental agencies.
  - If this is *not* done, the SBA may take additional action, including possible referral for criminal proceedings.

The details of the review process for loans over \$2 million have not yet been made clear. As more information is made available, we will share it with you. For now, [you can review the SBA's latest FAQ](#). We also encourage you to consult with your CPA and attorney for additional guidance, if necessary.

## **This is how you request forgiveness.**

You will apply to Pinnacle using our online system. Visit [PNFP.com/PPPForgiveness](https://PNFP.com/PPPForgiveness) for the full details of how it will work. In short:

- **It's all online.**  
You will be able to access it and fill it out online. The interface is very simple and user friendly, just one form on a single page.
- **It's self-directed.**  
You won't have to wait on us to help you fill it out. You can do it all by yourself online. It will be sent straight to us for review and then on to the SBA for a decision.
- **It includes all versions of the application.**  
There are three different applications: the 3508S application for loans of \$150,000 or less, the EZ application and the full. Our application system will help you decide and give you the right one automatically.
  - It is important to note however, that if you and your affiliates took more than one PPP loan for more than one business, you cannot use the 3508S application if those loans total more than \$2 million.
- **All applications require supporting documents.** The online application will ask you to upload the required documents to verify the information you have entered is correct. Without these documents, we cannot process your application. They include:
  - The number of full-time equivalent employees and their pay rates
  - Payroll expenditures covering the eight- or 24-week period following loan origination
  - 941 or equivalent payroll tax forms
  - Payment documentation on eligible mortgage, lease and utility obligations
  - A completed calculator tool (for the EZ and full applications only)
  - Certification that documents are true and you used the forgiveness amount for eligible purposes
- **It comes with a calculator to help with the figures.**  
If you've seen the full paper application, you know how complex the forms are. For some people, they may be more complicated than a tax return. We've built two calculator tools—one for the EZ and another for the full—to help. They work a lot like the calculator tool we used when you applied for the loan. You plug in your numbers, and it will give you the figures you need for the application. The 3508S application for loans of \$150,000 or less does not require a calculator.

We will review your request and the supporting documents. Please understand that it is ultimately your responsibility and not ours to provide and attest to the documentation supporting your request for loan forgiveness. The law says you will be provided an answer within 60 days. If approved by the SBA, your loan will be forgiven, and we will provide proof of forgiveness for your records. If not approved, we will work with the SBA to determine the amount that *can* be forgiven, if any. Then we will work with you to determine a schedule for repayment according to the terms of the loan:

- 1% interest rate
- Up to 10 months of deferred payments, though interest will accrue over this period
  - *This changed from six months due to the June 5 Congressional action.*
- 2-year maturity
  - *For new loans made after the June 5 Congressional action, this changes to 5-year maturity.*
- No prepayment penalties or fees

[For more information here is the link to the CARES Act and Interim Final Rules relating to PPP and forgiveness of your loan.](#)

[Here is a list of frequently asked questions with thorough answers from the SBA.](#)

As a reminder, the certifications as well as the burden to show eligibility and entitlement to forgiveness falls solely on the borrower and the owners thereof per the CARES Act, rules and guidance issued thereunder, the applications, and our loan docs., as do the significant penalties if any issues arise with regard to a borrower's participation in the PPP program. Accordingly, we encourage you to review the PPP rules and regulations on the Treasury website. Additionally, the tax rulings on forgiveness, including announcement 2020-12, are included on the IRS website.

Legal Disclaimer: The information provided herein does not, and is not intended to, constitute legal advice; instead, all information is for general informational purposes only. Information contained herein is subject to change and may not constitute the most up-to-date information. It is recommended that you contact your attorney to obtain advice with respect to any particular legal matter, and you should not act or refrain from acting on the basis of information contained herein without first seeking advice from your attorney. Only your individual attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation. All liability with respect to actions taken or not taken based on the contents hereof are hereby expressly disclaimed. The content herein is provided "as is;" no representations are made that the content is error-free.