

# PLAINS COMMERCE BANK

## PPP Loan Forgiveness: What We Know (For Now??)

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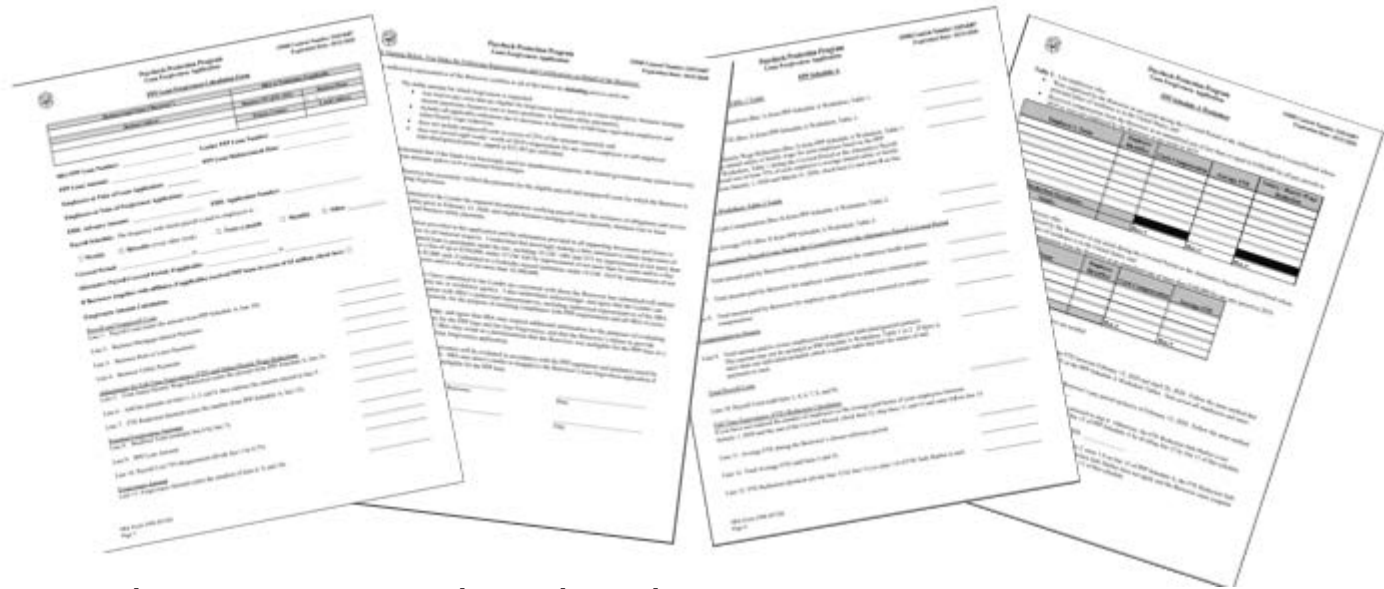
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## Agenda

- Paycheck Protection Program Loan Forgiveness Application
  - Analyze the Application, Schedule A and Worksheet to Schedule A
- Additional Guidance from SBA
  - IFRN on “Requirements – Loan Forgiveness”
  - IFRN on “Review Procedures and Related Borrower and Lender Responsibilities”
- What is still to Come
- Q&A

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## SBA ISSUES APPLICATION FOR LOAN FORGIVENESS-MAY 15, 2020



- Instructions, but no narrative based guidance
- Many questions still remained

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## FORGIVENESS APPLICATION



**Paycheck Protection Program  
Loan Forgiveness Application**

OMB Control Number 3245-0407  
Expiration Date: 10/31/2020

**PPP Loan Forgiveness Calculation Form**

Business Legal Name ("Borrower")		DBA or Tradename, if applicable	
Business Address		Business TIN (EIN, SSN)	Business Phone
			( ) -
		Primary Contact	E-mail Address

SBA PPP Loan Number: \_\_\_\_\_ Lender PPP Loan Number: \_\_\_\_\_

PPP Loan Amount: \_\_\_\_\_ PPP Loan Disbursement Date: \_\_\_\_\_

Employees at Time of Loan Application: \_\_\_\_\_

Employees at Time of Forgiveness Application: \_\_\_\_\_

<https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>

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## TOPICS COVERED BY THE APPLICATION

- How to calculate average wages/salaries including wages both paid and incurred
- Maximum amounts payable to Owner-Employees
- How to calculate FTEs
- How to calculate reduction in loan forgiveness as a result of changes to the number of FTEs and/or wages/salaries
- Safe Harbor provisions affecting both the FTE and wages/salary changes
- Eligible non-payroll expenses including those paid and incurred.
- Documentation to be provided to your Lender and Retained internally

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WHAT IF I DON'T SPEND 75% ON PAYROLL DURING THE COVERED PERIOD?

So, there are three potential forgiveness amounts. Your forgiveness amount is the smallest of these three options:

- 1 Total Loan Amount
- 2 Potential Forgivable Amount Less the Penalties
- 3 *Amount Spent on Payroll in the 8 Weeks ÷ .75*

This means if you spend less than 75% of the total loan amount on payroll, you will get a **proportional reduction in forgiveness**.

But it is possible the penalties will hurt more than the 75% rule.



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## FORGIVENESS APPLICATION PAYROLL DETAILS

<p><b>Allowable expenses</b></p>	<p><b>Bonuses and hazard pay</b>, as well as <b>wages to furloughed employees</b> are allowable as part of cash compensation. The \$15,385/employee cash compensation cap for forgiveness remains.</p>
<p><b>Clarity that <u>both</u> paid and incurred expenses during the Forgiveness period are allowed</b></p>	<p>Allowable payroll and non-payroll expenses include (a) expenses <b>incurred before</b> the 8-week period but <b>paid during</b> the period and (b) on a pro-rated basis, expenses <b>incurred during</b> the 8-week period but <b>paid after</b> by their next regular due date.</p> <p>Based on timing of loan and payroll/bill cycles, some organization will be able to claim forgiveness for <b>more than 8 weeks of expenses</b>.</p>
<p><b>Forgiveness period</b></p>	<p>There are now <b>2 options</b> for defining the 8-week forgiveness period; most organizations will continue to use the standard Covered Period: 56 days starting the day the loan was disbursed from the lender.</p> <p>Organizations will have a full 8 weeks, even if it <b>goes past June 30<sup>th</sup></b>.</p>
<p><b>Calculating penalties for workforce/wage reductions</b></p>	<ol style="list-style-type: none"> <li>1. Clearer formulas provided for the workforce and wage reductions</li> <li>2. Wage reduction applies first; then FTE reduction percentage</li> <li>3. Further guidance provided for seasonal employers</li> </ol>
<p><b>Calculating hours for a full-time equivalent employees</b></p>	<p>40 hours/week or simplified method of 1 FTE (full-time at 40 hours) and .5 FTE (part-time for anyone less than 40 hours)</p>
<p><b>Exceptions to workforce reductions</b></p>	<p>Exceptions for (1) employees who refuse to return despite written offer as well as (2) employees fired for cause and (3) employees who have voluntarily resigned or requested reduction in hours.</p>

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## OVERVIEW: HOW MUCH WILL WE GET FORGIVEN?

Up to **100%** of the funds you spend in the **8-week** period *if you:*

- 1) Keep or increase your **FTEs**
- 2) Maintain **salaries or hourly rates** of employees;  
and
- 3) Spend the loan on what it is **supposed to be spent on, including at least 75% for payroll**

Important: FTEs =  
Full-Time  
Equivalents.  
**NOT Headcount**

**BUT** - if you have to **decrease salaries or hourly rates** or **reduce FTEs**, you will get a partial **reduction in forgiveness**.

Reductions that were made between **2/15/20 - 4/26/20** will not reduce forgiveness if fully **replenished by 6/30/20**

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## THE COVERED PERIOD

- The “Covered Period”
  - The period under examination to determine how much of the loan amount can be forgiven
  - 8-week (or 56-day) period beginning on the PPP Loan **Disbursement Date**
- NEW Payroll Exception (For administrative convenience)
  - Organizations can elect to use an “Alternative Payroll Covered Period” for payroll purposes only.
  - This alternative period is to start on the first day of their first pay period following their PPP Loan Disbursement Date.
  - This option is only available to Borrowers with **biweekly** or more frequent payrolls (e.g., weekly payrolls). This is not available to semi-monthly or monthly payrolls.
- An eligible non-payroll cost must be **paid** during the Covered Period **or incurred** during the Covered Period **and paid on or before the next regular billing date**, even if the billing date is after the Covered Period.

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## AMOUNTS FORGIVABLE-PAYROLL COSTS

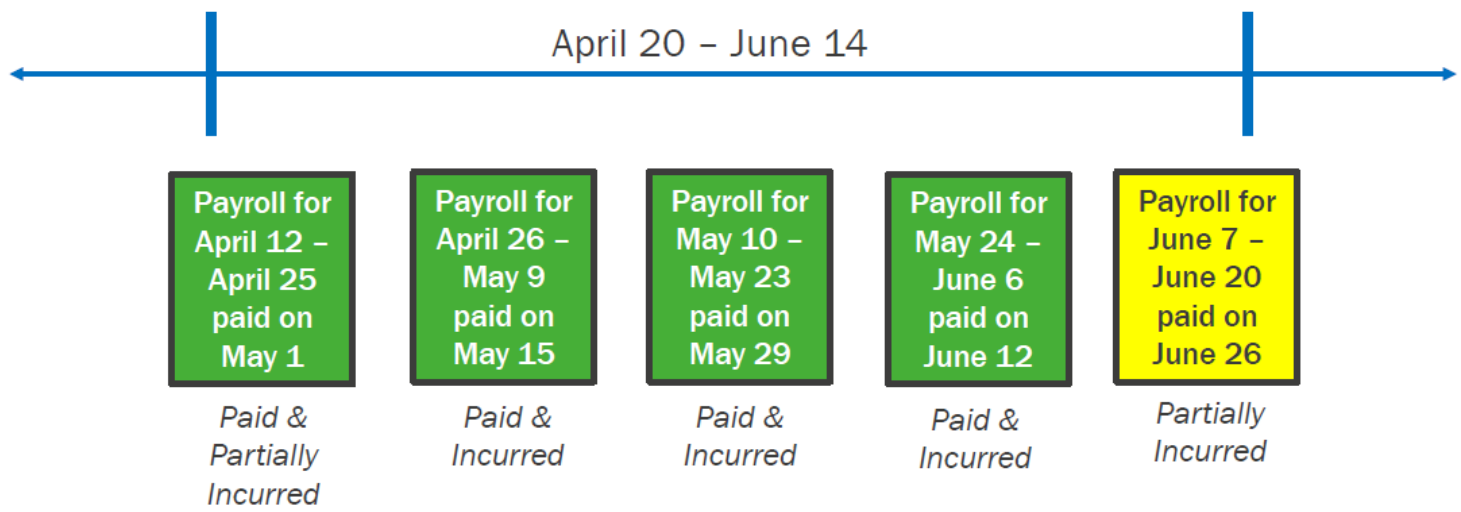
- Payroll costs
  - **paid** during the Covered Period (or Alternative Payroll Covered Period) **and**
    - On the day that paychecks are distributed or the Borrower originates an ACH credit transaction
  - **incurred** during the Covered Period (or Alternative Payroll Covered Period)
    - On the day that the employee's pay is earned
  - Cash compensation capped at \$15,385 per individual
  - Payments to independent contractors not included
  - Appreciation or hazard pay would be included
  - Non-FFCRA sick time would be included
- Employer portion of health insurance premiums are covered
  - Workers' compensation premiums are not included
- Employer contributions to employee 401(k) and other retirement accounts are covered
- State and local taxes assessed on employee compensation (not including amounts withheld from employee earnings) are covered
  - Federal taxes, Social Security not included

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## WHAT COUNTS DURING THE 8 WEEKS TOWARDS FORGIVENESS?

Example Covered Period: April 20, 2020 – June 14, 2020 For Payroll Costs

*Assumes Bi-Weekly Payroll and using standard Covered Period*



Payroll costs incurred but not paid during the Borrower's last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date.

*SBA may provide further guidance as there are some alternative ways to read their application*

Reminder: Cannot include more than **\$15,385** in cash compensation per employee in your forgiveness amount

**KEY**

**All of It Counts**

**Part of It Counts (Prorated)**

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## PAY TO OWNER-EMPLOYEES

- Pay to owner-employees is capped at **\$15,385 or the 8-week equivalent of their applicable compensation for 2019**, whichever is **lower**.
  - Current guidance is not exactly clear but our current understanding is this owner compensation are is split into three categories as outlined below
  - Owner employees – We believe this category are those owners who receive a W2
    - Can include employer retirement and healthcare contributions in the 2019 payroll amount
    - Limited to 8/52nds of 2019 pay or that paid during the covered period whichever is less
  - For “self-employed, Sole proprietors, and single member LLC ” i.e., those who will file a Form 1040 Schedule C or F for 2019
    - You are able to just rely on the amount of 2019 net profit allocated to you in line 31 of Schedule C or line 34 of Schedule F. Then this amount is multiplied by 8/52nds.
  - For General Partners of a Partnership and receive a K-1
    - Capped by 8/52nds of your 2019 net earnings from self-employment Box 14a (reduced by claimed section 179 expense deduction, unreimbursed partnership expenses, and depletion from oil and gas properties) and multiplied by .9235
- Health care and retirement costs attributable to the Partners and self employed are NOT forgivable.

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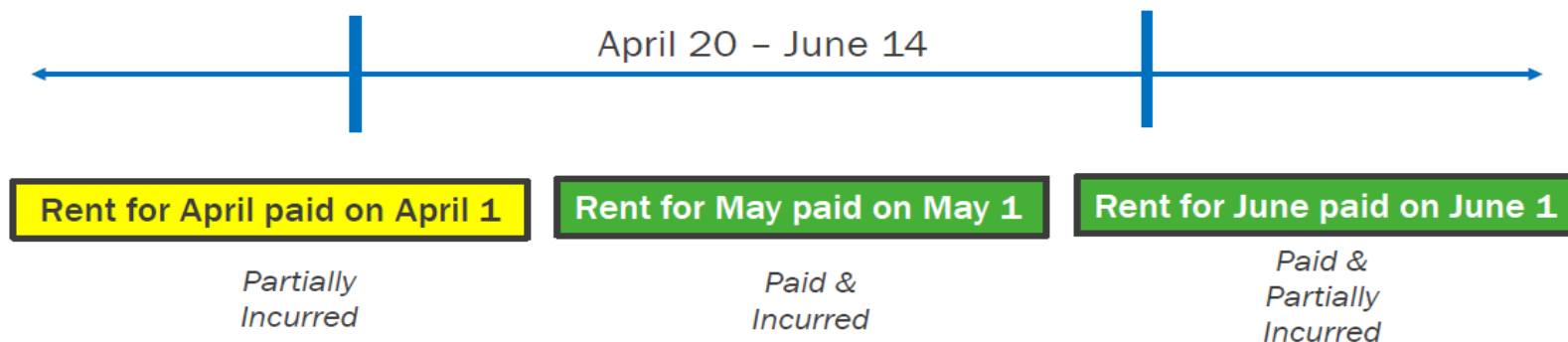
## AMOUNTS FORGIVABLE - NON-PAYROLL COSTS

- Mortgage obligations:
  - 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
- Rent obligations:
  - business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020
- Utility payments:
  - 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
  - Internet and phone covered
    - What if the service is in the name of an employee or owner and not the Company?
    - What about home utilities for those working from home?
- An eligible non-payroll cost must be **paid or incurred** during the Covered Period
  - If incurred, the cost must be paid **on or before** the next regular billing date, even if the billing date is after the Covered Period.
- For Self-employed borrowers and other Schedule C filers these expenses are limited to the extent it was claimed or entitled to be claimed on 2019 Schedule C

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## WHAT COUNTS DURING THE 8 WEEKS TOWARDS FORGIVENESS?

Example Period: April 20, 2020 – June 14, 2020 Non-Payroll: Rent



An eligible nonpayroll cost must be paid during the Covered Period or incurred during the Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period.

*SBA may provide further guidance as there are some alternative ways to read their application*

Reminder: Total non-payroll costs cannot exceed more than **25%** of your forgiveness amount without incurring a reduction penalty

**KEY**  
**All of It Counts**  
**Part of It Counts**  
**(Prorated)**



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## CALCULATING THE AVERAGE FTE'S

### Calculating Average Full-Time Equivalency:

- Full-time = 40 hours
- Average number of hours paid per week during the covered period, divide by 40
  - Round to the nearest tenth
  - Cap for each employee is 1.0
- Simplified alternative method (your choice):
  - Enter 1.0 for those employees who work 40 hours or more per week, and
  - 0.5 for employees who work fewer than 40
- We recommend calculating both methods and determining which has better outcome if FTE reduction is something that is likely to impact your business

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## FORGIVENESS SCENARIOS

SBA guidance allows you, the borrower, to pick one of two options to compare to your PPP 8-week period to understand how much you'll be able to get forgiven.

	Scenario 1	Scenario 2
Between <b>2/15-6/30/19</b> (Option 1) you had...	Monthly Average: <b>10 FTEs</b>	Monthly Average: <b>10 FTEs</b>
You grew in <b>January and February of 2020</b> (Option 2), so you had...	Monthly Average: <b>15 FTEs</b>	Monthly Average: <b>15 FTEs</b>
The crisis resulted in layoffs, so when you received your loan you had...	<b>5 FTEs</b>	<b>5 FTEs</b>
With PPP funds you can rehire during the 8-week period...	You rehire 5 FTEs for a weekly average of <b>10 FTEs</b> for the 8-week period	You rehire 3 FTEs for a weekly average of <b>8 FTEs</b> for the 8-week period
Forgiveness Result	<b>No Penalty</b>	<b>20% Reduction Penalty</b>

In both scenarios, you would compare to Option 1 – the lower FTEs option.

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## FTE REDUCTION PENALTY

### Do We Qualify for An Exception That Won't Reduce Our Forgiveness?

We made a good-faith written offer to rehire an employee during the 8-week period and it was rejected.\*

During the 8-week period, an employee was fired for cause, voluntarily resigned, or voluntary requested and received a reduction of their hours.

**Yes!**

If the position was not filled by a new employee, you can count these employees at their FTE in your 8-week period calculation

\*Per new SBA guidance, organizations must notify the relevant state unemployment office that the offer to return to work was rejected within 30 days of the rejection.

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## FTE REDUCTIONS IN LOAN FORGIVENESS – AN EXAMPLE:

- Joes Widgets of Brandon:
  - 103.5 FTEs during the covered period
  - 110 FTEs during the period of February 15, 2019 to June 30, 2019
  - 115 FTEs during the period of January 1, 2020 to February 29, 2020
  - PPP Loan amount = \$2 Million
- Loan forgiveness reduction:
  - $103.5/110 = 0.94$
  - $0.94 \times \$2,000,000 = \$1,881,818.18$
  - Total eligible loan forgiveness amount is \$1,881,818.18

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## FTE SAFE HARBOR EXAMPLE:

- Assume Joes Widgets had:
  - 104.2 FTEs during the period February 15, 2020 through April 26, 2020
  - 104.5 FTEs during the pay period that includes February 15, 2020.
- There were more employees for the second period (104.5) than the first (104.2)
- So long as the number of FTEs on June 30, 2020 is 104.5 or greater, the safe harbor applies.

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## SALARY REDUCTION PENALTY

Did you reduce your salary levels or hourly rates in 2020?

**NO!**



**No Reduction**

**YES**



**See the Appendix to See the Potential Effect and Safe Harbor**

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## SALARY/HOURLY WAGE REDUCTION

- Each employee (but not owner-employees) must be listed in the Schedule A Worksheet
  - Table 1: Those earning an annualized rate of \$100,000 or less for **all** pay periods in 2019 or were not employed in 2019. Only these employees need to be looked at for potential wage decreases
  - Table 2: Those earning an annualized rate of more than \$100,000 for **any** pay period in 2019. These employees do not need to be looked at for potential wage decreases.
- Hourly Wage Interpretation: Current guidance is not entirely clear on if a reduction of hours factors into the wage reduction calculation.
  - Currently we believe the wage reduction only looks at an employee if you decrease their wage per hour.

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## WAGE REDUCTION CALCULATION

- Pay reduction is analyzed on an employee-by-employee basis
  - Calculate the average annual salary or hourly rate for each employee during the covered period – this number is X
  - Calculate the average annual salary or hourly rate for each employee during the period January 1, 2020 and March 31, 2020 – this number is Y
  - Now divide X by Y = Z
  - If Z is **greater** than 0.75, then no reduction in loan forgiveness
  - If Z is **less** than 0.75, then there will be a reduction in the forgivable amount



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## WAGE REDUCTION CALCULATION – HOW MUCH REDUCTION IN LOAN FORGIVENESS? AN EXAMPLE:

- The employee was paid \$8,000 during the covered period
  - Average annual salary during the covered period = \$52,000 ( $(\$8,000/8 \text{ week}) \times 52 \text{ weeks}$ )
- The employee was paid \$20,000 from January 1, 2020 to March 31, 2020
  - Average annual salary during for this period was \$80,000 ( $\$20,000 \times 4$ )
- $\$52,000/\$80,000 = 0.65$
- Reduction in the Forgivable amount calculation
  - $\$80,000$  (annualize salary for first quarter)  $\times 0.75$  (the amount it could not fall below) = \$60,000
  - $\$60,000 - \$52,000$  (annualized salary during the covered period) = \$8,000
  - $\$8,000/52$  (weeks) = \$153.85
  - $\$153.85 \times 8$  (weeks) = \$1,230 **This is the amount reduction in the loan forgiveness**

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## BUT DON'T FORGET ABOUT SAFE HARBOR!

- The reduction in loan forgiveness is **NOT REQUIRED**, however, if you meet the safe harbor
- Determining safe harbor also is done on an employee-by-employee basis
  - Only available for employees who were working as of February 15, 2020
- How do I determine if the safe harbor provision is met?
  - The employee's annual salary or hourly wage as of February 15, 2020 = X
  - The average annual salary or hourly wage for the period from February 15, 2020 through April 26, 2020 = Y
  - If Y is **greater** than X, no safe harbor
  - If Y is **less** than X, then the safe harbor may apply.
    - Look to the average annual salary or hourly wage for the employee as of June 30, 2020
    - If this amount is **equal to or greater than** X, the safe harbor has been satisfied!!!

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## DOCUMENTATION – PAGE 10 OF FORGIVENESS APPLICATION

You must keep the following for **6 years** after the date of the loan is forgiven or repaid in full:

- PPP Schedule A Worksheet or its equivalent
  - Q2 Form 941 and state quarterly business and individual wage reporting documents
    - Won't be available until after July 1, 2020
    - Alternative: Third-Party Payroll service provider reports
- Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 1, including the “Salary/Hourly Wage Reduction” calculation, if necessary.
- Documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 2.
- Documentation regarding any employee job offers and refusals, firings for cause, voluntary resignations, and written requests by any employee for reductions in work schedule.
- Documentation supporting the PPP Schedule A Worksheet “FTE Reduction Safe Harbor.”

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## MORE DOCUMENTATION

- Documentation of all cancelled checks, payment receipts, transcripts of accounts, or other document verifying payments to covered expenses (mortgage or lease payments, utility payments)
- To seek PPP loan forgiveness, the employer (borrower) must submit the application to the lender that is servicing the loan and must include this documentation.

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## PPP FLEXIBILITY ACT

- Bipartisan effort to fix problems with the PPP.
  - Allow forgiveness for expenses beyond the 8-week covered period.
  - Eliminate restrictions limiting non-payroll expenses to 25% of loan proceeds.
  - Eliminate restrictions that limit loan terms to 2 years.
  - Ensure full access to payroll tax deferment for businesses that take PPP loans.
  - Extend the rehiring deadline to offset the effect of enhanced Unemployment Insurance.
- Based on comments from the various members of congress voting is supposed to happen later this week or next.

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## PPP FLEXIBILITY ACT

	CARES Act (current law)	PPP extension act (S. 3833) (Senate)	RESTART Act (Senate)	PPP Flexibility Act (H.R. 6886) (House)
Covered period	Feb. 15-June 30, 2020	Feb. 15-Dec. 31, 2020	Feb. 15-July 31, 2020	Feb. 15-Dec. 31, 2020
Covered expenses	Up to 8 weeks	Up to 16 weeks	Up to 16 weeks for businesses with revenue decline of at least 25%	Up to 24 weeks
Forgivable expenses	Payroll, employee benefits, mortgage interest, rent, and utilities  Not more than 25% of the forgiven amount may be for nonpayroll costs	Includes worker protection operating expenses and capital expenditures to comply with HHS, CDC and OSHA requirements	Payroll, employee benefits, mortgage and other scheduled debt interest, rent, utilities, and personal protective equipment	Eliminates the requirement to use 75% of funds on payroll expenses
Payback period	Capped at 10 years; Treasury capped at 2 years		Capped at 7 years	Capped at 5 years
Payment deferral	6 months		12 months for interest; 24 months for principal	

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## SO WHAT DOES THIS MEAN FOR ME

- Each business must evaluate what these changes could mean for them
  - We recommend making sound business decisions which may result in less than 100% of the PPP loan being forgiven
  - Borrowers should very carefully consider whether the strategy to ramp up payroll costs simply to get more payroll in the covered period is advantageous.
- These potential changes make it unnecessary to try to complete the current application in its entirety right now as these changes will likely result in an updated forgiveness application

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## WHAT CAN I DO TODAY?

- Review application and two additional IFRN's in their entirety
  - Focus on page 7 of the application for FTE calculation
  - Focus on page 10 for documentation to gather
- Calculate FTE's for the reference period of the borrowers choosing which are as follows
  - February 15, 2019 to June 30, 2019 or
  - January 1, 2020 to February 29, 2020, or
  - if seasonal any consecutive 12-week period between May 1, 2019 and September 15, 2019.
- Call your payroll provider to see what they are doing to help generate reports to assist in calculations.
- Start gathering and tracking non-payroll expense support
  - Documents to show utility, rent or loan was in place as of February 15, 2020
  - Documents showing proof of payment and supporting document for each amount
  - Track in spreadsheet to easily have total for each
- Get Organized!!! This will be critical to success and get all relevant departments (accounting, HR, etc) up to speed



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## WHAT IS PLAINS COMMERCE BANK DOING?

- We are creating a team of experts to field and answer questions as well as review forgiveness application
- You can submit questions via email to [cares@plainscommerce.com](mailto:cares@plainscommerce.com)
- We will post additional guidance on our website as it is provided
- We will send a mailer to you providing you with key information need for application such as SBA Loan #, Plains Commerce Bank Loan #, and loan disbursement date.
- We plan to create a checklist to be reviewed and provided with forgiveness application to ensure consistency of documents
- We are creating a tool to assist with calculation but due to likely changes none has been issued at this time.
- When documents have all been gathered by the borrower and the application is completed and ready to submit these will be submitted through your lender you worked with on your loan.



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QUESTIONS?

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THANK YOU!

