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On May 15, 2020, after much anticipation, the SBA released the Paycheck Protection Program (“PPP”) Loan Forgiveness Application and Instructions for Borrowers (the “Application”). [This 11-page document](#) provides guidance on how to calculate loan forgiveness and answers several questions that were, until now, unanswered. However, please be aware that there are still open questions regarding how to handle certain portions of the calculation of loan forgiveness.

What New Information and Clarification Does the Application Provide?

Covered Period: The Covered Period is the 8-week (56-day) period that starts on the day the PPP loan funds were received by the Borrower. Initial guidance required Borrowers to use the Covered Period to determine amounts spent for loan forgiveness purposes. The SBA is now permitting the use of an alternate 8-week period to determine amounts spent on payroll costs for loan forgiveness purposes (the “Alternative Payroll Covered Period”). Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the 8-week period that begins on the first day of their pay period following their PPP Loan Disbursement Date. The Alternative Payroll Covered Period is not used to determine the amounts spent on non-payroll costs for loan forgiveness purposes.

Expenses Paid or Incurred: The Application provides that Borrowers are generally eligible for forgiveness of payroll costs paid and incurred during the 8-week Covered Period or Alternative Payroll Covered Period. Payroll costs incurred, but not paid, during the Borrower’s last pay period of the 8-week Period are eligible for forgiveness if they are paid on or before the next regular payroll date. Borrowers can calculate payroll costs using either the Covered Period or the Alternative Payroll Covered Period at the Borrower’s election.

Full Time Employee Equivalent Defined: The Application is clear that one FTE is based on a 40-hour work week for one employee. To determine average FTEs, the Borrower should calculate the average number of hours worked per week by each employee, divide by 40, and round the total to the nearest tenth. The Borrower then adds up all of the average FTEs for a particular period. An employee working more than 40 hours per week is capped as 1.0 FTE. For employees working on average less than 40 hours per week, the SBA offers a practical solution - the Borrower can elect to use a simplified method that assigns 0.5 FTEs for any employee who works fewer than 40 hours per week.

Owners Compensation: The Application clearly designates a separate line item for Compensation to Owners on PPP Schedule A, Line 9 (See App Form page 6). Compensation for owners is calculated as the lower of \$15,385 (the 8-week equivalent of \$100,000 per year) for each individual or the 8-week equivalent of their 2019 compensation.

FTE Reduction Exceptions: In specific circumstances, Borrowers can include an FTE as part of the FTE Reduction calculation for an employee no longer employed during the Covered Period or Alternative Payroll Covered Period as long as the position was not filled by a new employee. These circumstances include:

- Any positions where the Borrower made a good-faith, written offer to rehire an employee during the 8-week period which was rejected by the employee; and
- Any employees who during the 8-week period: (a) were fired for Cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours.

FTE and Salary Reduction Safe Harbor: The FTE and salary reduction safe harbors remain unchanged. There is no reduction in loan forgiveness for reductions in FTEs or salaries from February 15th to April 26th from if those reductions are eliminated by June 30, 2020.

Documentation: The Borrower must retain all such documentation supporting (i) the PPP Loan application, (ii) the Borrower's certification as to the necessity of the loan request and its eligibility for a PPP loan, and (iii) the loan forgiveness application for six years after the date the loan is forgiven or repaid in full.

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