

SBA Issues Fresh Guidance and Streamlined Forgiveness Application

Update

June 17, 2020 | 2 minute read

On June 16, the Small Business Administration released an updated PPP Loan Forgiveness Application ([SBA Form 3508](#)) and a simplified version for certain eligible borrowers ([SBA Form 3508EZ](#)), both reflecting program changes implemented by the recently-enacted Paycheck Protection Program Flexibility Act. Additionally, the SBA and Treasury continue to release Interim Final Rules and guidance regarding the PPPFA, including a [recent IFR](#) that confirms PPP loans remain eligible for partial forgiveness even if less than 60% of the proceeds are used for payroll expenses.

Notably, the PPPFA-implemented change increases the amount of the loan that may be used for eligible nonpayroll expenses. Prior to the PPPFA, only 25% of the loan amount could be used for nonpayroll expenses. Now, borrowers may spend up to 40% on nonpayroll costs, and as long as at least 60% of the loan proceeds are spent on payroll costs, the entire loan may be forgiven. If less than 60% of the loan proceeds are spent on payroll costs, the forgiven amount will be reduced accordingly.

According to [the application instructions](#) for Form 3508EZ, borrowers are eligible to use the simplified two-page loan forgiveness application if they fall into one of the following three categories:

- The borrower is a self-employed individual, independent contractor, or sole proprietor with no employees at the time of the PPP loan application.
- The borrower did not reduce any employee salary by more than 25% and did not reduce the number of employees or the average paid hours of employees during the loan period.
- The borrower did not reduce any employee salary by more than 25% and was unable to operate, or was operating at a lower level of business activity,

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during the loan period due to compliance with sanitation, social distancing, or any other safety requirements or guidance related to COVID-19.

All other borrowers must use Form 3508, which contains additional schedules and worksheets primarily to account for employee and salary reductions.¹

While the SBA and Treasury continue to release new guidance since the passage of the PPPFA, several important issues remain unresolved.

Significantly, although the loan period has been extended to 24 weeks, as opposed to 8 weeks under the original PPP legislation, the SBA has not made clear if employers must calculate forgiveness amounts using the full 24-week period even if the loan funds are spent in a shorter timeframe. We expect additional forthcoming SBA guidance to address these issues.

Bracewell's cross-disciplinary COVID-19 task force is actively helping numerous clients navigate the many and evolving issues they are facing, including potential access to stimulus programs. Your Bracewell point of contact can help you learn more.

¹ The instructions for Form 3508 can be found [here](#).