



Paycheck Protection Program Update

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What is the PPP?

- New program added to Small Business Act (15 USC 636) by CARES Act
- Way for government to provide funds for a business's key operational expenses (payroll, mortgage interest, rent & utilities) for about 8 weeks of operations at pre-COVID-19 levels
- Structured as a forgivable loan
- Popular program



Victory has a thousand fathers, but
defeat is an orphan

- PRESIDENT KENNEDY

How much can a business borrow under the PPP?

- PPP loan amount is 2.5 times 2019 average monthly “payroll costs”
- Payroll costs are basically:
 - Cash compensation capped at \$100,000/year (includes self-employment income)
 - Noncash benefits with no cap (appear to be limited to employer contributions for health insurance & retirement)
 - State & local taxes on wages, such as unemployment insurance

What can PPP funds be used for?

- **Seven allowed uses:** payroll costs; costs related to continuation of group health care benefits during periods of paid sick, medical or family leave, and insurance premiums; mortgage interest; rent; utility; interest payments; and refinancing an Emergency Injury Disaster Loan (EIDL) made between 1/31-4/3, 2020
- **Four forgivable uses:** blue items above paid during the “covered period”
 - Covered period was weeks from loan origination
 - Payroll Protection Program Flexibility Act (PPFPA) extended this to 24 weeks from loan origination (or loan origination to 12/31, if shorter)
 - Can elect to use 8 week period

Is it too late to apply for the PPP?

- No, there are reports that \$100B of increased allocation remains unused
- PPPFA having a period from loan origination to 12/31 also indicates that it is not too late

What types of businesses qualify for the PPP?

- Businesses or charities with not more than 500 employees
- Businesses that satisfy the employee-based or revenue-based size standard corresponding to its primary industry based on NAICS code
- Businesses that satisfy the “alternative size standard” - tangible net worth not more than \$15M and average net income after Federal income taxes (excluding any carry-over losses) for the two full fiscal years before the date of the application of not more than \$5M

Who should apply for the PPP?

- Any eligible business that can certify that it can make the following certification in good faith: “Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant”

Who cannot apply for the PPP?

- Eligible businesses that cannot make the uncertainty certification
- Businesses that do not satisfy the employee count, NAICS code or alternative size standard
- Businesses that meet one of the standards but:
 - Are engaged in any activity that is illegal under Federal, state or local law (including cannabis business)
 - Are a household employer
 - Have a 20% or greater owner who is incarcerated; on probation; on parole; presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of a felony within last 5 years
 - Have defaulted or is delinquent (or affiliated with a business that has defaulted or is delinquent) on a loan from or guaranteed by the SBA or any other Federal agency within the 7 years and caused a loss to the government

Can Employee-Owners of businesses apply for the PPP?

- No, but the business can apply for the PPP loan
- Compensation paid to the employee-owners is included in payroll costs
- However, special limitations may apply in calculating forgiveness for payroll costs related to employee owners

Where does one apply for the PPP?

- Check with your bank



What is the role of the SBA in the PPP?

- Guarantees the loans
- Makes final decision on forgiveness of the loans
- Pays the bank the amount forgiven
- Issues guidance about the loans
- Generally oversees the process

Is there any reason not to apply for the PPP?

- There can be
- Requires a case-by-case determination

What are the basic terms of a PPP loan?

- 2-year note at 1% interest with no guarantees
- Payments generally start after 6 months with monthly payments of entire PPP loan amortized after 24 months
- Amortization schedule will need to be adjusted after forgiveness
- The PPPFA:
 - Extends term of new PPP loans to 5 years
 - Extends first payment date for all PPP loans from after 6 months to after the date on which the amount forgiven is determined, provided that borrower applies for forgiveness within 10 months after end of period

What is the basic plan to follow to get PPP loan approved?

- Minimal steps are needed because PPP loans are designed to be easily accessible by small businesses
- Complete loan application and provide documents substantiating 2019 payroll costs

What do I need to know about PPP loan forgiveness?

- Generally meant to cover key operational expenses (payroll, mortgage interest, rent & utilities) for about 8 weeks of operations at pre-COVID-19 levels
- Businesses with these expenses at pre-COVID-19 levels generally will have entire PPP loan forgiven, except if non-payroll costs are relatively low

What can and cannot be forgiven?

- Amount paid or incurred for payroll, mortgage interest, rent & utilities can result in forgiveness
- Other expenses (*e.g.*, supplies) cannot be forgiven

What are non-payroll expenses and can they also be forgiven?



- Nonpayroll expenses that can be forgiven are mortgage interest, rent & utilities

Are the PPP rules still works in progress?

- The general rules applicable to most business are established
- However, rules for specific situations, such as businesses with employees outside of the U.S. or owner-employed businesses, are being tweaked
- New guidance will be needed for the recently enacted PPPFA

Do you have any concerns with any new or modified PPP rules?

- Generally concerned with changes that go against prior guidance and result in more complicated calculations
- E.g., the newly created limitations for forgiveness for payroll costs of “employee-owners” (undefined)

What questions are still unanswered?

- Too many to list on a slide
- However, most can work through the program without unanswered questions

Have any new business opportunities arisen from PPP?

- Businesses have opportunity to continue full operations despite drop in customers and revenues
- Advisors have opportunity to assist with questions and issues that always arise from a new regime
- Banks have opportunity to continue normal lending operations using loans guaranteed by the government
- I have the opportunity to give a presentation to a Hawaiian audience, which normally would not arise! 😊

What is your advice to anyone contemplating applying for a PPP?

- Apply for the loan

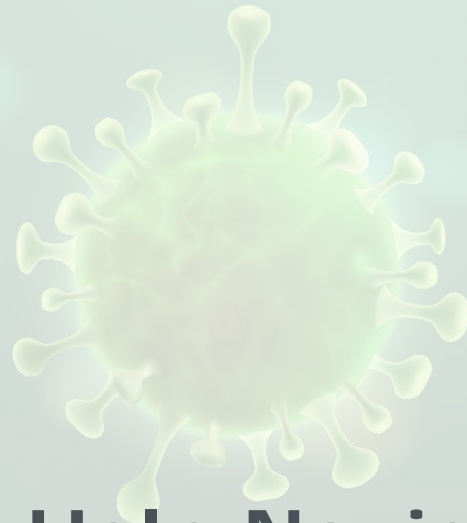
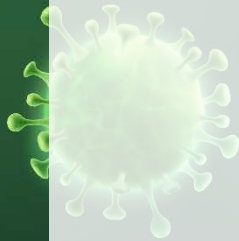
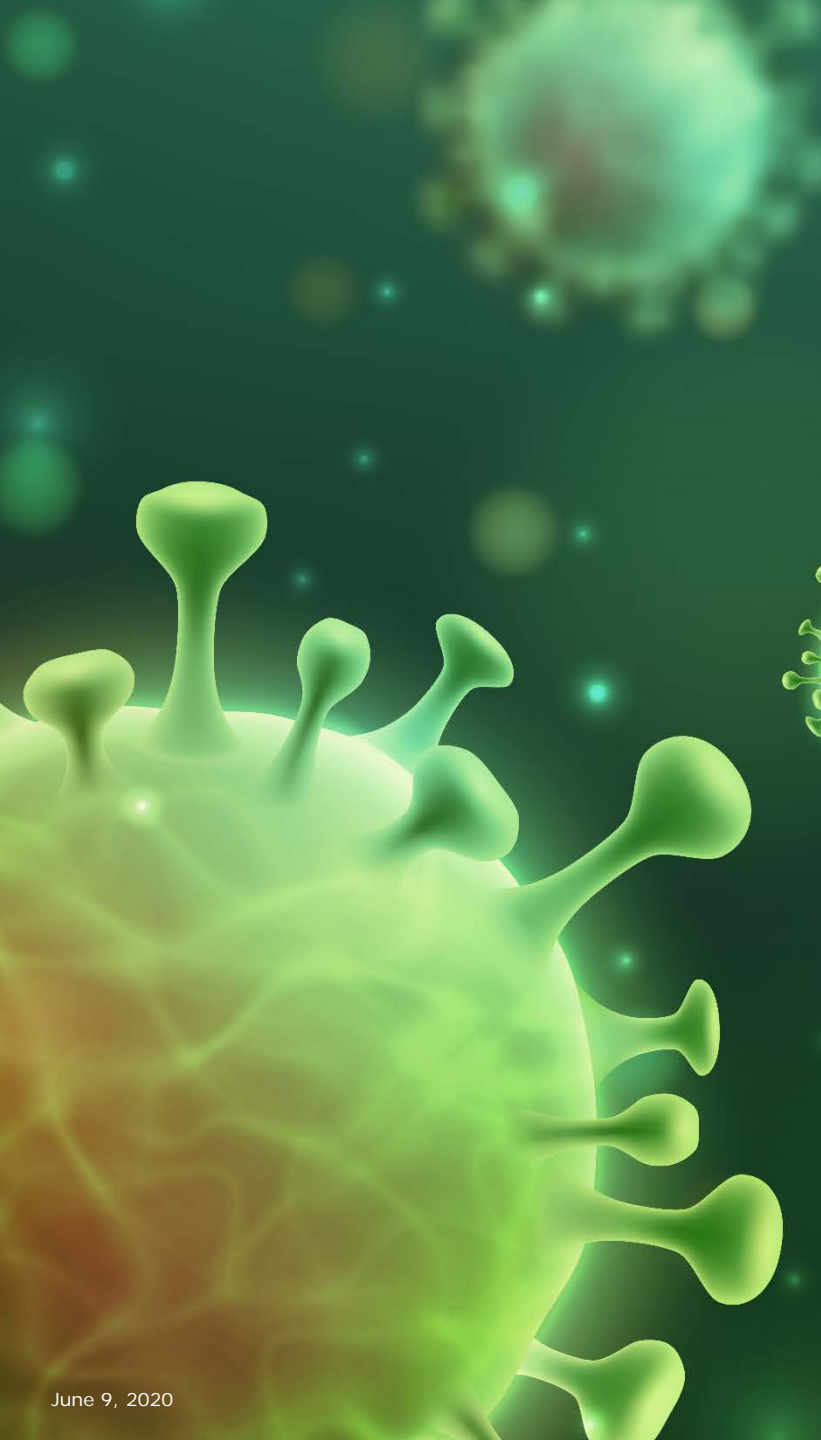


When should one get legal counsel for the PPP?

- Best to check in with legal counsel from the beginning
- Legal counsel can be especially helpful for documenting the basis for uncertainty certification
- That said, PPP loans are designed to be user friendly and easy to get, and many businesses will obtain a PPP loan and full forgiveness without counsel



QUESTIONS?



Need Help Navigating COVID-19?
ACCESS OUR RESOURCE CENTER

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Download our [PPP Spreadsheet](#)
to calculate estimated loan forgiveness

THANK YOU



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