

Loan Forgiveness Guide for Enterprise Bank PPP Clients

Revised June 23, 2020

Many of you, our Paycheck Protection Program (PPP) loan clients, have or will soon be nearing the end of the 8 week expenditure period following receipt of your PPP loan funds, which was defined as the “covered period” for use of your PPP loan proceeds under the original program guidance. However, with the recent passage of the Paycheck Protection Program Flexibility Act of 2020 (Flexibility Act), PPP borrowers who received their PPP loans prior to June 5, 2020, which represents the vast majority of the Bank’s PPP borrowers, now have the option utilizing one of two different covered periods. The first available covered period option remains the 8 week period following the date of disbursement of the PPP loan, but PPP borrowers may instead elect for the covered period to be the 24 week period beginning on the date on the date the lender disburses the PPP loan. **It is important to note, however, that the borrower may submit a loan forgiveness application even before the end of the elected covered period if the borrower has used all of the PPP loan proceeds for which the borrower is requesting forgiveness. If you do NOT need to rely on any of the FTE or wage reduction safe harbors which have now been extended to the date of your forgiveness application but not later than December 31, 2020 in order to maximize your forgiveness, we encourage you to make your forgiveness application to the Bank as soon as you have spent your PPP loan funds and have filed your quarterly federal wage tax and state wage tax and unemployment compensation returns that cover any portion of your expenditure period. For those who have already or will spend their PPP loan funds by June 30, 2020, that allows you to make a forgiveness application to the Bank as soon as your quarterly 941’s, State quarterly wage reports (PA-W3R if a PA business) and State quarterly unemployment compensation returns (UC 2’s if a PA business) for the quarter ending 6/30/20 are filed in July.**

Further, there remain a number of questions outstanding regarding the eligibility and process for obtaining loan forgiveness from the SBA. We are attempting in this Bank loan forgiveness guidance document to provide the best information that we can on PPP loan forgiveness in layman’s and general terms based on our reading and interpretation of the CARES Act, the Flexibility Act, multiple Interim Final Rules (IFR’s) issued by the Department of Treasury/SBA, the loan forgiveness application forms issued, and the Treasury/SBA Frequently Asked Question (FAQ) guidance which has been continually updated. Please understand that the Bank’s interpretations herein are not definitive or final in many cases, nor will the Bank enforce any of its interpretations or guidance herein in the processing of PPP loan forgiveness applications unless and until Treasury/SBA issues more specific guidance on a number of issues that are still in question or remain unclear. Until such time, it is suggested and advised that you, the PPP borrower, read the available program guidance, most of which is posted on the Bank’s COVID-19 resource page of its website at www.enterprisebankpgh.com/covid-19, on your own and in greater detail than summarized here, and make your own interpretations in preparing your loan forgiveness applications. Most specifically, recent IFR’s #RIN 3245-AH49 (Paycheck Protection Program-Revisions to First Interim Final Rule), #RIN 3245-AH51 (Business Loan Program Temporary Changes; Paycheck Protection Program-Revisions to the Third and Sixth Interim Final Rules) and #RIN3245-AH52 (Business Loan Program Temporary Changes; Paycheck Protection Program – Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule) along with the most recent versions of the SBA Paycheck Protection Program Loan Forgiveness Applications (SBA Form 3508 revised June 16, 2020 and SBA Form 3508EZ), provide the most comprehensive and detailed guidance issued by the Treasury/SBA on loan forgiveness to date.

Some overarching principles of the PPP program to keep in mind when preparing your loan forgiveness application are as follows:

- The primary focus of the PPP program by virtue of its name (Paycheck Protection) was to keep the same number of employees on payroll and paid at levels similar to that paid prior to the COVID-19 pandemic. The focus is similar in terms of maximizing loan forgiveness under the program.
- Borrowers shall be eligible for forgiveness, subject to several important limitations, in an amount equal to the sum of authorized Payroll and Non-Payroll costs **incurred** and **payments made** during the covered period.
(See pages 6-10 & 12-13 of IFR #RIN 3245-AH46 which was revised on pages 7-10 of IFR #RIN 3245-AH51 and on pages 10-16 of IFR RIN 3245-AH52 for more detailed information)
- There are safe harbors in place to allow PPP borrowers to still maximize forgiveness if they are able to bring FTE counts and restored wages back to at least 75% of pre-COVID levels on or before the date they apply for forgiveness or December 31, 2020 whichever is earlier, or if they qualify under additional recent safe harbors including:
 - If an employee is fired for cause, voluntarily resigns, voluntarily requests a schedule reduction, or if a good faith written offer to rehire or restore hours of a formerly laid off employee is declined by the employee during the covered period *(See pages 13-22 of IFR #RIN 3245-AH46 and page 20 of IFR #RIN 3245-AH52 for more detailed information)*
 - If the Borrower is able to document an inability to rehire individuals who were employees of the Borrower on February 15, 2020 or an inability to hire similar qualified employees for unfilled positions on or before December 31, 2020. *(See pages 19 and 22 of IFR #RIN 3245-AH52 for more detailed information)*
 - If the Borrower is able to document an inability to return to the same level of business activity at which the business was operating at before February 15, 2020 due to compliance with COVID related government requirements. *(See pages 19 and 22-23 of IFR #RIN 3245-AH52 for more detailed information)*
- Cash compensation to employees to obtain forgiveness is limited to \$15,385 if the Borrower elects an 8 week Covered Period or \$46,154 if the Borrower elects a 24 week covered period (both compensation limits annualize to \$100k per year). Total owner compensation to owner-employees and self-employed individuals is limited to the lesser of 8/52 of 2019 compensation or \$15,385 (annualizes to \$100k per year) if the Borrower elects an 8 week covered period or the lesser of 2.5 months' worth (2.5/12) of 2019 compensation or \$20,833 per individual if the Borrower elects a 24 week covered period. These compensation caps for owner-employees in a C-Corporation include cash compensation as well as employer retirement and health insurance contributions made on their behalf, whereas compensation caps for owner-employees in an S-Corporation include cash compensation and retirement contributions made by the employer on their behalf, but not health insurance contributions. *(See page 8 of IFR #RIN - 3245-AH51 and pages 13 -15 of IFR #RIN 3245-AH52 for more detailed information)*
- PPP loan proceeds used for compensation to business owners themselves are not intended to be used to provide compensation in excess of levels experienced prior to the COVID-19 pandemic.
(See pages 9 & 10 of IFR #3245-AH51 and pages 13 -15 of IFR #RIN 3245-AH52 for more detailed information)

- Because of the focus on payroll, Treasury/SBA implemented a requirement that at least 60% (reduced from the original 75%) of PPP loan proceeds forgiven must have been spent on payroll related expenses to receive maximum forgiveness.
(See pages 8-10 of IFR #RIN 3245-AH49 and page 7 of IFR #RIN 3245-AH51 for more detailed information)
- PPP loan proceeds are to be used strictly for authorized purposes as stated within the CARES Act, and intentional use of PPP loan funds outside of those authorized uses will not only eliminate forgiveness for those unauthorized funds uses, but may also require immediate payback of those funds by SBA, trigger personal liability by the owners and/or authorized representative of the Borrower on the PPP loan, or invoke civil and criminal penalties against those involved in misuse of funds.
(See page 9 of IFR #RIN 3245-AH47 for more detailed information)
- Loan forgiveness under the program is provided based on the **Borrower's** certifications and documentation provided by the **Borrower**. The Bank's/Lender's role in the loan forgiveness application process is as follows:
 - Confirm receipt of the documentation borrower must submit to aid in verifying payroll and non payroll costs
 - Confirm the borrower's calculations on the borrower's Loan Forgiveness Application

Providing an accurate calculation of the loan forgiveness amount is the responsibility of the **borrower**, and the borrower attests to the accuracy of its reported information and calculations on the Loan Forgiveness Application. Lenders are expected to perform a good-faith review, in a reasonable time (which is defined in the current guidance as up to 60 days processing time by the lender plus up to 90 days processing time by the SBA), of the borrower's calculations and supporting documents concerning amounts eligible for loan forgiveness.

(See pages 10 & 11 of IFR #RIN 3245-AH47 and pages 24-31 of IFR #RIN 3245-AH52 for more detailed information)

- Recent program guidance now provides for initial principal and interest payment deferments on the unforgiven portion of PPP loans until the earlier of when a forgiveness determination (and corresponding determination of any non-forgiven amount to be repaid) is made by SBA or 10 months following the end of the covered period. Non-forgiven funds subject to repayment will then be amortized over the remainder of the two year loan maturity for PPP loans disbursed prior to June 5, 2020 or over the remainder of the five year loan maturity for PPP loans disbursed on or after June 5, 2020. **Considering the initial 8 or 24 week covered period for expenditures, followed by the undefined time period required for the Borrower to complete and submit their forgiveness application and supporting documents to the Bank and SBA for review, the 60 day period that the Bank has to review the forgiveness application and make a recommendation regarding forgiveness to SBA, and SBA's 90 day period to make a final decision on loan forgiveness, PPP borrowers that procrastinate in completing and submitting their loan forgiveness application to the Bank and/or do not use their PPP loan funds in a way that maximizes forgiveness, risk facing substantial principal and interest payments on unforgiven funds.** Enterprise Bank will endeavor to process and submit to SBA complete PPP loan forgiveness applications within 30 days rather than the 60 days provided under the current program guidance. The time period that will have the most impact in mitigating this cash flow risk to the PPP Borrower in terms of principal and interest payments becoming due and having the longest period possible to amortize unforgiven funds will be how

quickly they are able to prepare and submit a complete PPP loan forgiveness application package to the Bank following completion of their PPP loan expenditures.

(See pages 7-8 of IFR #RIN 3245-AH49 for more detailed information)

- Current program guidance seems to indicate that both quarterly Federal and State payroll and quarterly State unemployment compensation returns covering any portion of the expenditure/covered period will be required to be submitted as part of the Borrower's loan forgiveness application package. With this in mind, to the extent you have already or will spend your PPP loan funds by June 30, 2020, it will be necessary to defer submission of your loan forgiveness application package to the Bank until after June 30, 2020 when those required quarterly returns for Q2 of 2020 are able to be prepared and filed. That does not mean, however, that you should delay in compiling other supporting payroll and other authorized expense related documentation or in completing your PPP loan forgiveness application forms and calculations such that you will be prepared to submit your forgiveness application to the Bank as soon as those quarterly returns are available. *(See "Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application" on Page 6 of the Instructions for the Loan Forgiveness Application Revised June 16, 2020 and on Page 4 of the PPP Loan Forgiveness Application Form 3508EZ Instructions for Borrowers for more detailed information)*

In submitting their PPP loan forgiveness application to the Bank, Borrowers should provide the following to their Enterprise Bank Relationship Manager:

- 1.) Completed SBA Loan Forgiveness Application Form 3508 or 3508EZ, as applicable. It is anticipated that most Enterprise Bank PPP borrowers will be able to use the shorter form Forgiveness Application 3508EZ, provided they have NOT reduced employee compensation for employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000, by more than 25% during the Covered Period or Alternative Payroll Covered Period compared to the period between January 1, 2020 and March 31, 2020. This is because the new 3508EZ form can be used by all self-employed individuals, independent contractors and sole proprietors without employees, as well as by other businesses in conjunction with the new FTE reduction safe harbor regarding inability to restore FTE's due to COVID related business conditions. Those utilizing the 3508EZ form must provide first two pages of that application form to the Bank (submittal of Page 3 which is PPP Borrower Demographic Information Form is optional). Those who do not qualify for use of the 3508EZ form and who must use the regular 3508 form should also include the PPP Loan Forgiveness Calculation Form (*pages 1 & 2 of Form 3508 Revised June 16, 2020*), PPP Schedule A (*page 3 of SBA Form 3508 Revised June 16, 2020*), and the PPP Borrower Demographic Information Form (*Optional*) (*page 5 of SBA Form 3508 Revised June 16, 2020*). *Please note: the PPP Schedule A Worksheet on page 4 of the SBA Form 3508 Revised June 16, 2020 should be completed and maintained by the Borrower but is not required to be submitted to the Lender.*
- 2.) Bank account statements, third-party service provider or internally prepared payroll reports for the periods that overlap with the chosen covered period.
- 3.) Tax forms for the periods that overlap with the chosen covered period including quarterly Federal Form 941's, State quarterly wage reports (PA-W3R if a PA business) and State quarterly unemployment compensation returns (UC 2's if a PA business).

- 4.) Payment receipts, cancelled checks or account statements documenting payments of employer contributions to health insurance and retirement plans.

- 5.) Non-payroll costs:
 - a. Business Mortgage Interest Payments – lender amortization schedule and receipts or cancelled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and from the Covered Period through one month after end of the Covered period verifying interest amounts and eligible payments.

 - b. Business Rent or Lease Payments – Copy of current lease agreement and receipts or cancelled checks verifying eligible payments from the Covered Period; or lessor account statements from February 2020 and from the Covered Period through one month after the end of the Covered Period verifying eligible payments.

 - c. Business Utility Payments – Copies of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments.

Most importantly, even with the recent passage of the Paycheck Protection Program Flexibility Act, which provides borrowers with the option to extend the original 8 week expenditure/covered period to 24 weeks, it is highly suggested based on other current program guidance currently in place, that PPP borrowers complete their authorized PPP loan proceeds expenditures no later than June 30, 2020. This is due to the fore-mentioned need for quarterly federal and state tax reporting documents to be included in the loan forgiveness application package to the lender and SBA. If PPP loan expenditures extend beyond 6/30/20, it may trigger the need to defer submission of your PPP loan forgiveness application to the lender and SBA until the following quarter's (Q3 2020) returns are available which would not be until after September 30, 2020.