



Due to the impact of the Coronavirus Disease 2019, also known as COVID-19, the SBA Paycheck Protection Program (the "PPP" or "Loan Program") was implemented. Limestone Bank provided PPP loans to borrowers. As of May 14, 2020 the federal government has not provided final guidance regarding loan forgiveness at this time. **It is incumbent on each borrower to comply with the statutes and regulations related to the Loan Program to receive forgiveness, and each borrower should review and understand the guidance made available by the federal government.**

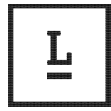
*The following information is not meant to be all-inclusive or a substitute for the statutes and regulations related to the Loan Program, but instead, only a limited summary, which is subject to change based on guidance from the federal government. Limestone Bank does not guarantee any borrower will be eligible for or receive loan forgiveness. This information does not change or modify any provision of any loan document, and borrowers are hereby advised that this information should not be relied upon for determining whether or not a loan may be forgiven or for determining the best, correct, or as guidance from the bank for the use of PPP funds. Limestone Bank does not guarantee the accuracy or completeness of any example used below, and any example is only for illustration purposes. Each borrower should determine on their own and/or with their own advisor(s) the method and use for their loan funds pursuant to the federal statutes and regulations. Limestone Bank will provide an update when requests for loan forgiveness may be submitted for review.*

**Document retention considerations:**

- Borrowers should consider retaining documentation relating to the following:
  - Documentation verifying the number of full-time equivalent employees on payroll and pay rates including: payroll tax filings reported to the Internal Revenue Service; and state income, payroll, and unemployment insurance filings.
  - Documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments.

**"Permitted Purposes":**

- "Permitted Purposes" is a specific term used by the federal government in the context of the Loan Program. The PPP loan proceeds should be disbursed by the borrower within eight weeks of receipt. Funds not applied to "permitted purposes" within the eight-week period may not be forgiven.
  - "Permitted purposes" includes:
    - Payroll costs, including benefits;
      - Salary, wages, commissions, or tips (capped at \$100,000 on an



annualized basis for each employee);

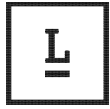
- However, the \$100,000 cap on per-employee compensation is exclusive of benefits. Assume you have an employee whose annual compensation is \$120,000 (\$10,000 per month). For purposes of PPP loan forgiveness, his or her compensation is capped at \$100,000 (\$8,333 per month). That employee also receives family health insurance valued at \$1,150 per month. Both the \$8,333 and the \$1,150 appear to be permissible applications of the PPP loan funds.
- Employee benefits including costs for vacation, parental, family, medical, or sick leave;
- Allowance for separation or dismissal;
- Payments required for the provisions of group health care benefits including insurance premiums;
- Payment of any retirement benefit; and
- State and local taxes assessed on compensation.
- Interest on mortgage obligations in force before February 15, 2020;
- Rent, under lease agreements in force before February 15, 2020; and
- Utilities, for which service began before February 15, 2020.
- Exclusions from “permitted purposes” includes:
  - The employer’s portion of federal tax obligations, such as the FICA match, are not within the permitted purposes.
  - Interest on mortgages may be paid with PPP loan funds, but not on the principal. Borrower may not prepay mortgage interest.
  - PPP funds may not be used for either the Emergency Paid Sick Leave Act (“EPSLA”), which entitles workers to up to 80 hours of paid sick time when they are unable to work for certain reasons related to COVID-19, or the Emergency Family and Medical Leave Expansion Act (“Expanded FMLA”), both under the Families First Coronavirus Response Act (the “FFCRA”).

**Amount of funds used for “permitted purposes”:**

- At least 75% of the loan proceeds should be applied to payroll costs.

**What about employees who refuse to return?**

- For borrowers who attempt to rehire employees that were laid off, but an employee declines the offer to return to work, a borrower should have documentation they made a good faith, written offer of rehire to the employee for the same wages and number of hours and the borrower should also document the employee’s rejection of the offer.



**Employee-based limit on forgiveness:**

- The amount of a PPP loan that may be forgiven could be limited to the extent you have a reduction in the number of full-time equivalent employees ("FTEE"). The following is an example and may not cover the circumstances for all borrowers.
  - The loan forgiveness limit is a fraction in which the numerator is the average FTEE over the eight-week covered period.
  - The denominator is:
    - (A) the average FTEE between February 15, 2019 and June 30, 2019 or March 1, 2019 and June 30, 2019; or
    - (B) the average FTEE between January 1, 2020 and February 29, 2020.
      - Seasonal employers are required to use (A).
      - Other employers may use (a) or (b) and presumably will use the smaller of the two.
  - The fraction will be applied to the amount of the PPP loan (and not just the portion applied to payroll expenses) in determining a cap on the amount that may be forgiven.
  - If the borrower has laid-off or terminated employees, the borrower could consider making new hires (they do not have to be the former employees) to bring your FTEE census back to where it was.
  - Even if you have increased your FTEE so that the ratio is higher than 1, it is capped at 1.

**Other Documentation:**

- Borrowers should maintain contemporaneous records of what the funds were used for and why.
  - Each borrower may consider setting up a virtual account in your accounting software or other recordkeeping to track the depletion of funds. When funds are applied, such as by writing a check from your operating to your payroll account, document that funds were withdrawn from the PPP funds to cover that portion of your payroll that falls within PPP guidelines for forgiveness. Make a record of how you calculated the correct amounts (pro-ration of lease expenses, stub periods for payroll and the exclusion of non-PPP purposes such as employer FICA taxes) tied to an entry for the disbursement.
- Sole Proprietors:
  - As a sole proprietor, the borrower can have eight weeks of the loan forgiven as a replacement for lost profit. But, the borrower needs to provide documentation for the remaining funds – mortgage interest, rent, lease, and utility payments.