

The Payroll Protection Program Flexibility Act

The Payroll Protection Program (PPP) was generated by the CARES Act, which created a number of relief programs to address the COVID-19 crisis. The SBA has issued several clarifications about the program's parameters through interim guidance and FAQ's, but significant changes were made on June 5, 2020 when the [Payroll Protection Plan Flexibility Act](#) (PPPFA) was signed into law. PPPFA makes the following changes to the PPP loan program:

Loan Period, Maturity and Spending Requirements

- Extends the date by which funds must be spent from June 30, 2020 to December 31, 2020. (The loan application deadline remains June 30, 2020.)
- Expands the covered period for capturing forgivable PPP loan expenses to from 8 to 24 weeks, with those 24 weeks being required to end by December 31, 2020. Borrowers may keep the 8- week covered period if they choose.
- Increases the maturity of loans entered into *on or after June 5, 2020*, to five years. Lenders and borrowers are permitted to renegotiate loan maturity terms on PPP loans entered into prior to June 5, 2020.
- Decreases the minimum percentage of funds that must be spent on payroll costs to obtain full forgiveness from 75% to 60%. Businesses spending less than 60% on payroll costs will be eligible for partial forgiveness proportional to the amount spent on payroll costs.

FTE Requirements

- Extends the deadline to restore the number of full-time equivalent employees (FTE) to pre- 2/15/20 levels and still qualify for forgiveness to December 31, 2020.
- Creates new exemptions regarding the required restoration of FTE's to pre 2/15/20 levels in order to obtain full loan forgiveness for borrowers:
 - Who can document that they were both unable to rehire previous employees and unable to find suitable replacement employees by 12/31/20 or
 - Who can document that their ability to conduct business at previous levels has been diminished due to compliance with or guidance from HHS, CDC or OSHA.

Payroll Tax And Loan Payment Deferrals

- Extends the period of loan payment deferral to coincide with the date of loan forgiveness so that repayment of any unforgiven funds would not be required until loan forgiveness has been granted.
- Permits recipients of a PPP loan to defer the payment of 2020 payroll taxes to 2021 and 2022. Previously the payroll tax deferral did not apply after a borrower received a loan. More detailed guidance is expected.

SBA will be issuing new rules, a modified loan application form and a revised loan forgiveness application which will reflect the changes made by the PPPFA.

The full SBA press release can be found [here](#).