

## Use of Proceeds and Forgiveness Information Regarding the Coronavirus Aid, Relief, and Economic Security (CARES) Act – Paycheck Protection Program

This document is based solely on Nusenda's review and interpretation of the CARES Act and Interim Final Guidance, and is subject to change based on forthcoming guidance from the U.S. Small Business Administration. Nusenda makes no warranty regarding the accuracy or completeness of this information. This information does not constitute legal or financial advice, and borrowers should consult with their attorney or tax advisor for additional guidance.

### Paycheck Protection Program Use of Proceeds and Debt Forgiveness Information

#### Loan proceeds may only be used for specific expenses:

- 75% of the proceeds must be used for payroll costs.
- 25% of the proceeds may be used for utilities, mortgage interest, rent/lease payments, interest on existing debt, and other approved efforts to retain employees.

You have an 8-week period from the date of your disbursement to use your proceeds. You must maintain detailed records of how the proceeds from your loan are used. Forgiveness is prohibited without adequate records of the use of funds.

Loan proceeds may be used for any of the following:

#### Allowable Uses (For Employers)

- At least 75% of loan proceeds should be used for Payroll Costs.
- Owner's Compensation Replacement calculated based on Self-Employment Earnings used in determining your loan amount. Note that only 8-weeks of this portion (approximately 73%) is eligible for forgiveness.
- Interest expense on debts incurred prior to Feb. 15, 2020.
- Rent expense on leases in effect prior to Feb. 15, 2020.
- Utility expenses for services beginning prior to Feb. 15, 2020.

#### Allowable Uses (For Independent Contractors and Businesses with no employees)

- Owner's Compensation Replacement calculated based on Self-Employment Earnings used in determining your loan amount. Note that only 8-weeks of this amount (approximately 73%) is eligible for forgiveness.
- Interest expense\* on mortgage debts incurred prior to Feb. 15, 2020.
- Rent expense\* on leases in effect prior to Feb. 15, 2020.
- Utility expenses\* for services beginning prior to Feb. 15, 2020.
- Interest expense on other debts incurred prior to Feb. 15, 2020. **Interest on other debts is not eligible for forgiveness.**

\*Note that you must have claimed, or be entitled to claim, a deduction for these expenses on your 2019 tax return in order for the expense to be eligible for forgiveness.

## Preparing your Records

No more than 25% of the proceeds should be used for costs other than Payroll Cost. Borrowers should maintain records (receipts, cancelled checks, account transcripts or statements, or other verification of payment), which will need to be submitted with the subsequent application for debt forgiveness.

- For all Payroll Costs, you will need to provide a copy of the applicable Payroll file (including details for each employee).
- For all interest payments, you will need to provide a copy of the Promissory Note if not held with Nusenda.
- For all lease payments, you will need to provide a copy of the Lease Agreement.
- For all utility payments, you may need to provide a copy of the current utility bill **AND** a copy of a bill from the utility company for January 2020.

## Application for Debt Forgiveness

We continue to await final guidance from the SBA on the processing of forgiveness applications; however, the following guidelines were taken from the CARES Act and SBA Interim Final Guidance.

### For Businesses with Employees:

100% of the loan proceeds may be eligible for debt forgiveness by the SBA provided funds are used for allowable uses subject to restrictions on Self-Employment Earnings. Application for forgiveness will be processed after the loan proceeds are used and will require records as outlined under 'Preparing your Records' section above. Forgiveness is prohibited without adequate records of the use of funds.

Reductions in forgiveness may apply if either:

- There is a reduction in average FTE per month in the covered period (Feb. 15, 2020 to June 30, 2020) as compared to either (at Borrower's election):
  - o Average FTE per month during the period of Feb. 15, 2019 to June 30, 2019; or
  - o Average FTE per month during the period of Jan. 1, 2020 to Feb. 29, 2020.
- There is reduction in total salary and wages of an employee in excess of 25% based on the salary and wages for the most recent full quarter.

These reductions are proportional to the reductions in FTE or an employee's wages in excess of 25%, and may be waived if FTEs and/or salaries and wages are reinstated prior to June 30, 2020.

### For Independent Contractors and Businesses without Employees:

100% of the loan proceeds may be eligible for debt forgiveness by the SBA provided funds are used for allowable uses and, in general, were eligible for deduction on your 2019 tax return. Application for forgiveness will be processed after the loan proceeds are used and will require records as outlined under 'Preparing your Records' section above. Forgiveness is prohibited without adequate records of the use of funds. Remember, Owner's Compensation Replacement is limited to 8-weeks of payments (or approximately 73% of the Eligible Loan Amount).

## Updates and Additional Guidance

The U.S. Department of Treasury and Small Business Administration, continue to issue guidance on the Paycheck Protection Program. We encourage business members to monitor these sites for updates regarding their loans.

- [U.S. Department of Treasury](#)
- [U.S. Small Business Administration](#)

The following updates pertain to the “Allowable Uses” and “Debt Forgiveness”:

## Frequently Asked Questions

8. **Question:** Do PPP loans cover paid sick leave?

**Answer:** Yes. PPP loans covers payroll costs, including costs for employee vacation, parental, family, medical, and sick leave. However, the CARES Act excludes qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116-127).

40. **Question:** Will a borrower’s PPP loan forgiveness amount (pursuant to section 1106 of the CARES Act and SBA’s implementing rules and guidance) be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer?

**Answer:** No. As an exercise of the Administrator’s and the Secretary’s authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimis exemptions from the Act’s limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act’s loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee’s rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

## Economic Injury Disaster Loans (“EIDL”) Loan Eligibility

The Interim Final Rule 1 for the Paycheck Protection Program states that if your EIDL loan is not used for payroll costs, it does not affect your eligibility for a PPP Loan.