

# KNOWLEDGE EXCHANGE PARTNER

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## THIS ISSUE:

Paycheck Protection Program  
Loan Forgiveness Information 1

President Trump Issues Executive  
Order Affecting Temporary Work  
Permits 3

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Protection Program  
Flexibility Act,  
which was signed  
into law on June 5,  
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to the PPP.**

## Paycheck Protection Program Loan Forgiveness Information

For those businesses that have a Paycheck Protection Program (PPP) loan, we know that loan forgiveness is important to you and your business. We encourage you to begin preparing now so you have what you need when you're asked to provide documentation in support of your PPP loan forgiveness request. So, how should you prepare?

### Select your covered period

Perhaps the most significant decision you will have to make is whether to use the original 8-week forgiveness period or the new 24-week option. The Paycheck Protection Program Flexibility Act, which was signed into law on June 5, 2020, made some important changes to the PPP, including increasing the allowable timeframe for spending PPP funds from 8 to 24 weeks.

The day your PPP funds are deposited in your account is the day your forgiveness period starts. This 8- or 24-week option is known as your **covered period (CP)**. This covered period is the amount of time in which you have to spend your PPP funds to qualify for forgiveness.

There is also the **alternative payroll covered period (APCP)** that can be chosen instead of the covered period. To be eligible for this option, your operation must pay biweekly or more frequently. The APCP is also an 8- or 24-week option, but this option starts the first day of the pay period immediately following the disbursement date. For example, record the date you received your PPP funds, then use the first day of the next pay period as the start of your APCP to align with your regular payroll cycles.

Once you choose your forgiveness period, be sure to document, document, document!

### Document your expenses

The PPP Flexibility Act also lowered the threshold for the amount spent on payroll to be eligible for forgiveness from 75% to 60%. With proper documentation, borrowers should know when that threshold is reached.

Document both payroll costs and other eligible expenses (rent, secured loan interest and utilities) in detail for each week following the loan disbursement date (when the PPP loan funds were deposited into your bank account).

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## Full-time equivalents

Generally, businesses must maintain a similar number of employee full-time equivalents (FTEs) during the covered period after loan disbursement, as compared to the FTEs they used to estimate their loan request. As an important piece of loan forgiveness documentation, let's look at how to calculate a FTE.

For the FTE calculation, first choose whether you're using your Covered Period (CP) or Alternative Payroll Covered Period (APCP).

Then, for wages, you compare your CP (or APCP, if chosen) to:

January 1, 2020 - March 31, 2020

AND

The pay period including February 15, 2020

AND

February 15, 2020 - April 26, 2020

AND

The pay period including June 30, 2020.

For FTEs, you compare your Covered Period (or APCP if chosen) to:

January 1 - February 29, 2020

OR

February 15 - June 30, 2019

OR (for those who applied as a Seasonal Employer ONLY)

Any 12 consecutive weeks between May 1 and September 15, 2019

For most employers, it will make sense to choose the comparison period with the fewest FTEs as that will allow you the most flexibility.

For the FTE reduction Safe Harbor, if you reduced your number of average FTEs during the time period of February 15, 2020 – April 26, 2020 AND you restore the number of FTEs by the pay period including December 31, 2020 to the FTE's during the pay period that included February 15, 2020, you will not be subject to the FTE forgiveness reduction factor.

Additional Exceptions to the FTE Reduction include:

- Borrower was unable to rehire or replace a vacant position with a similarly qualified individual by December 31, 2020
- Employer attempted (in writing) to rehire or restore hours of an employee who rejected the offer
- An employee who resigned, requested a voluntary reduction in hours or was fired for cause
- The business was unable to operate at the same activity as on February 15, 2020 due to COVID –19 safety restrictions (such as a government order to shut down or reduce capacity, etc.)

In addition, companies must also maintain total salary and wages for each employee at least at a similar level compared to the most recent quarter during which the employee was employed prior to receiving the loan.

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## What costs are eligible for forgiveness?

At least 75% of loan proceeds, if using the 8-week option, or 60% of loan proceeds, if using the 24-week option, must be used for payroll related costs, as defined by the Small Business Administration (SBA).

No more than 40% or 25% (depending on your forgiveness option) of the loan forgiveness amount may be for eligible non-payroll costs (i.e. rent, mortgage interest and utilities).

Visit [Sba.gov](https://www.sba.gov) and [Treasury.gov](https://www.treasury.gov) for information on loan forgiveness and eligibility. It is your obligation as the borrower to understand the SBA rules.

There are a short and long form for loan forgiveness that can be found at [FarmCreditEast.com/resourcehub](https://FarmCreditEast.com/resourcehub).

Note that Farm Credit East has an extensive list of frequently asked questions regarding PPP forgiveness. [Click here to access.](#)

In addition, weekly, live Q&A sessions are held Wednesdays at 9:00 AM for those producers who have specific questions and to review any additional guidance from the Small Business Administration. [Learn more about a Q&A session here.](#)

For a discussion on expense tracking and documentation requirements based on initial SBA guidance, view the webinar recordings from two identical webinars held May 21 and 22: Understanding the Basics of Loan Forgiveness for the Paycheck Protection Program.

## President Trump Issues Executive Order Affecting Temporary Work Permits

On June 22, President Trump issued an executive order restricting many categories of foreign workers and curbing immigration visas through the end of 2020.

While H-2A visas for agricultural workers were not included in the order and are unaffected, many other categories used by a wide range of businesses are impacted. Among those visa categories affected are:

- **H-1B:** Temporary work visas for specialty occupations. This category is heavily used by technology companies.
- **H-2B:** Temporary work visas for nonagricultural workers. This category is heavily used by employers in resort areas, as well as landscapers, seafood processors and others. Agricultural retail and equine operations also use workers in this visa category.
- **J-visas:** Temporary visas for foreign nationals participating in internships as trainees, teachers, camp counselors, au pairs and summer work programs. Agricultural employers often use this category to hire interns.
- **L-visas:** Temporary work visas for intracompany transferees of multinational corporations who work in managerial positions or have specialized knowledge.

According to the proclamation, "The entry into the United States of any alien seeking entry pursuant to any of the [listed] nonimmigrant visas is hereby suspended."

Administration officials also said they would issue new regulations denying work authorization to asylum-seekers with pending claims for one year. Many such individuals have, in the past, found employment in the agricultural sector.

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The restrictions do not affect foreign nationals already in the United States under the listed visas, nor lawful permanent residents or their immediate family members. The proclamation also says the suspension shall not apply to those who “provide temporary labor or services essential to the United States food supply chain; and... [those] whose entry would be in the national interest....”

In addition, the proclamation extends the 60-day freeze declared on April 22 on the entry of foreign nationals as immigrants, with some exceptions, through the end of 2020. Together, the two executive orders promise to significantly slow the entry of foreign nationals on both immigrant and temporary visas for the remainder of the year.

Visa processing by U.S. consulates abroad had already declined sharply prior to this announcement. State department statistics show the number of nonimmigrant visas issued each month has dropped by 90% since February of this year. Last month, the state department worldwide issued only 40,000 nonimmigrant visas, including tourist visas, down from 670,000 in January of this year.

While these orders may be challenged in court, provisions of the Immigration and Nationality Act passed in 1952, give the president broad powers to restrict entry of foreign nationals to the U.S. The Act says little about what factors a president needs to consider nor how long a suspension should last, so it is unclear if opponents have basis to challenge the administration.

#### CONTACT INFORMATION

We look forward to your questions about Knowledge Exchange Partner and your feedback:

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