### Welcome!

#### For questions or more information, contact your local SBDC.

LSBDC at Southeastern Louisiana University

Tel: 985-549-3831

Email: <a href="mailto:lsbdc.org">lsbdc.org</a>

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LSBDC at Nicholls State University

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LSBDC at Southern University

Tel: (225) 771-2891

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# Restarting American Small Business: PPP Compliance

Presented by Bryon Garrety



# RECAP:

### COVID-19 Timeline

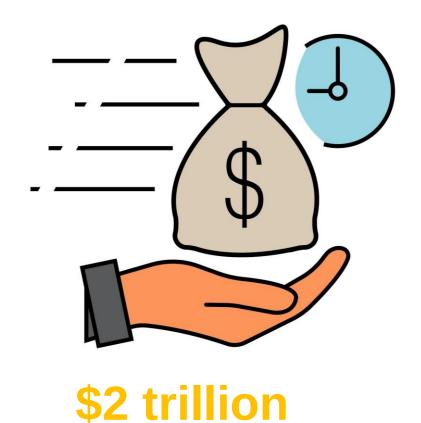
Dec. 31	Chinese health authorities treated dozens of cases	Mar. 13	President Trump declared a national
Jan. 11	China reported first death		emergency
lon 20	Other countries including the LLC confirmed coope	Mar.18	Families First Coronavirus Response Act
Jan. 20	<b>Jan. 20</b> Other countries, including the U.S., confirmed cases		CARES Act Enacted \$349 billion
Jan. 23	Wuhan, China, a city of more than 11 million, was cut	Apr. 3	PPP Opens
	off by the Chinese authorities	Apr. 17	PPP Closes
Jan. 30	W.H.O. declared a global health emergency	Apr. 24	Paycheck Protection Program and Health
Jan. 31	Trump administration restricted travel from China		Care Enhancement Act ("PPPHCEA") was
Feb. 23	Italy saw a major surgo in casos		signed into law, which increased by
Feb. 23	Italy saw a major surge in cases		\$310 billion, bringing the
Feb. 29 U.S. reported first death			total funding amount to \$659 billion





#### C.A.R.E.S Act

Coronavirus Aid Relief and Economic Security Act



3/27/20 - Date Passed

- Pandemic Unemployment Coverage
- Individual Stimulus Checks
- Paycheck Protection Program
- Tax law changes and credits





#### **Important Limits Under PPP**

PPP

- PPP can only be filed for <u>once</u>
- Limits per person on compensation:
  - <u>Per year:</u> \$100,000
  - Per month: \$8,333
  - Per week: \$1,923
  - Total for 8 weeks: **\$15,385**







#### **PPP Overview**

#### What Can I Use These Loans For?

- To pay employees
- Includes health and retirement benefits (8/52 of 2019 self-employed profit)
- Rent and utilities

#### **What Counts As Payroll?**

 Salary, wages, commissions, tips & employee benefits reported on form 941

(8/52 of 2019 self-employed profit)



#### **How Large Can My Loan Be?**

- 2.5X your average monthly payroll
- 2.5X your average monthly selfemployed profit

#### How Much Of My Loan Will Be Forgiven?

 Loan forgiveness is equal to the amount of payments made in the above expenses <u>subject to</u> <u>limitation</u>





To gauge the impact of the program, we're asking you –

#### Have you received PPP funds?

If so, please send a "yes" in the question section of this webinar.







# SMALL BUSINESS ADMINISTRA

#### **Small Business Administration**

(SBA Loans)

- 7 (A) Program
- Paycheck Protection Program (PPP)
- Economic Injury Disaster Loan Program (EIDL)
- Payroll Loan (PL)
- Loans that turn into grants

\*\*\* PPP and EIDL are sister programs





Loan amounts and purposes (based on employee v.s. self-employed):

#### **PPP Employee**

- 1. 2.5x average monthly payroll
- 2. Should be equal to 8 weeks of payroll
- 3. Any excess can be spent on rent, utilities and interest

Max benefit per person: \$15,385 (over 8 weeks)

#### **PPP Self-Employed**

- 1. 2.5x average monthly self-employed income
- 2. Should be equal to 8 weeks of self-employed profit
- 3. Any excess can be spent on rent, utilities and interest

Max benefit per person: \$15,385 (over 8 weeks)



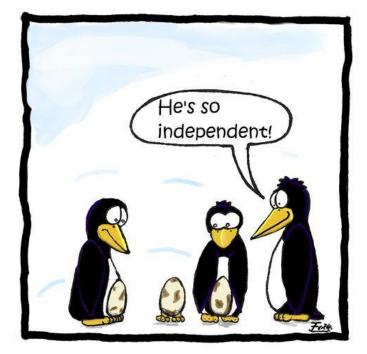


# Paycheck Protection Loan Program (PPLP)

#### 13 CFR Part 120 B. III. 2.h

**Q:** "Do independent contractors count as employees for purposes of PPP loan calculations?"

**A:** "No, independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan calculation."



#### 13 CFR Part 120 B. III. 2. p

**Q:** "Do independent contractors count as employees for purposes of PPP loan forgiveness?"

**A:** "No, independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan forgiveness."





For a show of hands:

# Do you know an independent contractor that should apply for PPP?

If so, please send a "yes" in the question section of this webinar.





#### Let's do the math...

Paycheck Protection Plan: Employer		
Average Payroll Amount:	\$120,000 / 12 months	
Average Monthly Payroll:	\$10,000	
Paycheck Protection Plan Multiplier:	2.5x	
Paycheck Protection Amount:	\$25,000	





#### Let's do the math...

Paycheck Protection Plan: Self-Employed		
2019 Schedule C Line 31 Amount:	\$60,000 / 12 months	
Average Monthly Profit:	\$5,000	
Paycheck Protection Plan Multiplier:	2.5x	
Paycheck Protection Amount:	\$12,500	





#### Let's do the math...

Paycheck Protection Plan: Amount Forgiven for Self-Employed		
2019 Schedule C Line 31 Amount:	\$60,000	
Divide (÷) by 52 Weeks:	\$1,153 per week	
Multiply (x) by 8 Weeks:	\$9,230	

\$12,500 - \$9,230 = **\$3,270 remaining** for rent, utilities and interest





#### **PHASE ONE**

From the start of the program until 4/16/20, Louisiana approved

26,635 PPP Loans

which together, total for an amount of

\$5,100,534,501

Approximately 40% of second round funds are still available.





#### **PHASE TWO**

From 4/27/20 – 5/8/20, Louisiana has approved

37,186 PPP Loans

which together, total for an amount of

\$2,271,563,428

Approximately 40% of second round funds are still available.





#### **Now That You Have Your Loan**



#### Is the loan correct on its face and is the application proper?

- A loan with material error or misrepresentation cannot be forgiven
- If it broke the law at its creation, it will fail all the way through

**Is the amount of the loan correct?** 2.5x proper base

#### Do you truly meet all of the certifications? What if you do not?

- PPP Rules and related SBA guidance place the burden on borrowers to confirm their own eligibility
  - This includes calculating payroll costs, assessing affiliation and determining employee headcount
- The accuracy of the information it supplies to the lender, and permit lenders to rely on borrower certifications in determining loan eligibility and provide that the <u>SBA will hold lenders harmless for a borrower's failures to comply with the PPP's criteria</u>

#### Can it be forgiven and how much will be forgiven?

We have advised our clients that loan forgiveness <u>could</u> be anywhere from 90 - 95%. However, it's important to manage expectations.





#### PPP Certification Checklist (Part One)

#### **Need to provide the following information to qualify for the PPP:**

- 1. Average monthly payroll amount
- 2. Number of employees
- 3. <u>To calculate loan request:</u>

(Average monthly payroll amount)  $\times 2.5 + EIDL$ , Net of Advance (if applicable) = **Loan Request** 

- 4. Purpose of the loan (can select more than one of the following if applicable):
  - □ Payroll
  - ☐ Lease / Mortgage Interest
  - Utilities
  - ☐ Other (provide an explanation)





#### PPP Certification Checklist (Part Two)

- ☐ Company has a measurable impact caused by the Coronavirus and less than 500 employees
- Applicant was in operation on 2/15/20 and had employees for whom it paid salaries and payroll taxes or was an independent contractor
- ☐ Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant
- ☐ Funds will be used to retain workers and maintain payroll or make mortgage interest, lease and utilities payments
- Applicant will provide lender with documentation verifying the number of full-time employees on payroll and dollar amounts of payroll costs, covered mortgage interest rent, utilities and rent payments for the eightweek period following this loan

- □ Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for nonpayroll costs
- ☐ From 2/15/20 12/31/20, the applicant has not received and will not receive another loan under the Paycheck Protection Program
- ☐ Information provided in all supporting documents of the application and forms is true and accurate in all material respects
- ☐ Lender must confirm the eligible loan amount using required documents submitted





#### Safe Harbor

Any company who **repays the loan in full by 5/18/20**, will be deemed by the SBA to have made the required certification in good faith. You have until that date to reevaluate your Paycheck Protection Program (PPP) loan to avoid civil and/or criminal liability.



- Many small businesses immediately applied for all available COVID-19 aid, regardless of whether they needed it
- The SBA has provided a grace period until 5/18/20 for companies who submitted applications but whose business operations were not significantly impacted by COVID-19 to return the loan proceeds
- Companies that return the proceeds will be deemed to have submitted their original application in good faith and will be free from potential civil or criminal liability for the required certifications on their original application

FAQ #47 (sba.gov)

If you have received PPP funds and your business operations have not been materially and adversely affected by COVID-19, you may want to reconsider returning the funds this week





#### **Documentation**

- It is strongly recommended that you document all your transactions with regard to the funds used from your PPP Loan
- Along with that, we would suggest that you take a moment now to document your "stateof-mind" and rationale or reasons behind why you believe your certification regarding the need for a PPP Loan
- This is best to do now, while the application process is fresh in your memory and include in your files should it be needed later
- You need your financial statements. You need your CPA. You need your banker.







# No Forgiveness, Partial Forgiveness or Entirely Forgiven?

- Congressional intent may not have been to have 100% of the loan forgiven
- You will have to complete the Loan Forgiveness Application (LFA)
- Complete SBA Form 3508 (05/20),
   provide documentation and meet all
   requirements (many loans will be audited)

#### 4 major tests and several minor tests to pass:

*Test 1:* 75% spent on payroll remaining 25% on allowed expenses over 8 week period

*Test 2:* Reduction in salary not over 25% per person

*Test 3:* FTE (positions) comparable to measurement period (largest reduction)

*Test 4:* Use of funds for unauthorized purpose







(Test 1)

# **Loan Forgiveness Reduction Based on Use of Funds**

Payroll costs v.s. Non-Payroll costs

- Pursuant to U.S. Treasury and Interim SBA rules, at least <u>75% of the loan proceeds</u>
   <u>must be used for payroll costs during the Covered Period 8 Weeks</u>
- The amount of PPP loan forgiveness will be reduced to the extent loan proceeds are used for qualified non-payroll costs in excess of 25% of the total amount eligible for forgiveness
- The 75% / 25% rule is the last of the calculation (Line 10, Page 3, Form 3508)





#### (Test 2)

# **Loan Forgiveness Reduction Based on Reduction of Salaries For Each Employee**

- Each employee who earned annual wages in 2019 will have a reduction to loan forgiveness amount by the percentage reduction in annualized wages of more than 25% as compared to their most recent full quarter
- The reduction in loan forgiveness for a reduction in wages can be avoided if the borrower restores by 6/30/20 the same wages the employee was earning as of 2/15/20, as compared to wages paid between 2/15/20 and 4/26/20
- This can be found in Schedule A of the application (Table 1 & Table 2, Form 3508)
- Keep an eye out for further guidance on this issue from the SBA.





#### (Test 3)

#### **Full-Time Employees (FTE)**

- The amount of loan forgiveness available to a business is reduced in total when a business does not maintain the average number of full-time equivalent employees per month (reference period) when compared with:
  - Average number of full-time equivalent employees per month employed by the eligible recipient from 2/15/19 to 6/30/19

#### **OR**

 Average number of full-time equivalent employees per month employed by the eligible recipient from 1/1/20 to 2/29/20



#### \*\* Note for seasonal employers:

Loan forgiveness is determined by the average number of full-time equivalent employees per month employed by the recipient from 2/15/19 until 6/30/19





#### **Calculate That:**

#### Reduction in the Number of Full-Time Employees

Loan Forgiveness Formula:

Loan Amount x (Post-PPP FTE / Pre-PPP

**Example:** a business receiving \$100,000 in PPP Funds who *reduces* staff from 10 full-time employees (Reference period) down to 8 full-time employees (in Covered period):

 $100,000 \times (8 / 10) = 80,000$  in potential loan forgiveness

#### **Post-PPP Full-Time Employees:**

Date of loan origination, plus 8 weeks

#### **Pre-PPP Full-Time Employees:**

2/15/19 – 6/30/19 **OR** 1/1/20 – 2/29/20

There is currently conflicting advice regarding the "Pre-PPP FTE" calculation. Some have indicated that the selection of this number is at the borrower's discretion as to which "Pre-PPP FTE" number to use in the calculation.

However, some experts have noted that the Pre-PPP FTE count should be the LOWER of these two numbers.

Please discuss this with your financial advisor or accountant.





#### **Calculation of Loan Forgiveness Reduction**

• The PPP loan program is intended to support employers to continue to pay their workers. The amount of the loan forgiveness will be reduced based on the following calculations:

#### **Loan Forgiveness Reduction Based on a Decrease to Employee Headcounts**

- A reduction to the loan forgiveness will be made if the average number of full-time employee equivalents
  (FTEs) per month during the eight-week period is less than the average number of employees per month
  during the reference period
  - Can be 2/15/19 to 6/30/19 or 1/1/20 to 2/29/20, at the borrower's discretion
- The average number of FTEs per month is calculated based on the average number of FTEs for each pay period falling within a month
- The reduction in loan forgiveness for reduction in headcount can be avoided if the reduction in FTEs that was made during the period between 2/15/20 and 4/26/20 is restored by 6/30/20
  - Table 2 calculation





#### (Test 4)

#### When PPP Loan Funds Are Misused

- Pursuant to Interim SBA rules, if PPP funds are used for unauthorized purposes, the SBA will direct you to repay these amounts
- If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud
- If a shareholder, member, or partner uses PPP funds for unauthorized purposes, the SBA will have recourse against these individuals for the unauthorized use









**Q:** "Does using the Paycheck Protection Program (PPP) to cover a deductible business expense affect our business' tax return 2020?"

**A:** Yes. If you use loan proceeds from a PPP loan to cover a deductible business expense (such as payroll, office rent, utilities) and that loan is forgiven by the SBA, you don't get the deduction on your tax return in 2020.

FAQ #40 (sba.gov)

**Q:** "Will a borrower suffer a reduction in its forgiveness amount if an employee is laid-off, the borrower offers to rehire that employee (for the same salary/wages and same number of hours) and the employee declines the offer?"

**A:** No, a borrower will not suffer a reduction in its forgiveness amount for these circumstances. The SBA intends to issue an Interim Final Rule on this subject, which will require that the borrower made a good faith, written offer of rehire and that the employee's rejection of that offer is documented. Employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.





FAQ #14 (sba.gov)

**Q:** "What time period should borrowers use to determine their number of employees and payroll costs to calculate their maximum loan amounts?"

**A:** In general, borrowers can calculate their aggregate payroll costs using data either from the previous 12 months or from calendar year 2019. For seasonal businesses, the applicant may use average monthly payroll for the period between 2/15/19, or 3/1/19, and 6/30/19. An applicant that was not in business from 2/15/19 to 6/30/19 may use the average monthly payroll costs from 1/1/20 to 2/29/20.

Borrowers may use their average employment over the same time periods to determine their number of employees, for the purposes of applying an employee-based size standard. Alternatively, borrowers may elect to use SBA's usual calculation: the average number of employees per pay period in the 12 completed calendar months prior to the date of the loan application (or the average number of employees for each of the pay periods that the business has been operational, if it has not been operational for 12 months).







FAQ #16 (sba.gov)

**Q:** "How should a borrower account for federal taxes when determining its payroll costs for purposes of the maximum loan amount, allowable uses of a PPP loan, and the amount of a loan that may be forgiven?"

**A:** Under the Act, payroll costs are calculated on a gross basis without regard to (i.e., not including subtractions or additions based on) federal taxes imposed or withheld, such as the employee's and employer's share of Federal Insurance Contributions Act (FICA) and income taxes required to be withheld from employees. As a result, payroll costs are not reduced by taxes imposed on an employee and required to be withheld by the employer, but payroll costs do not include the employer's share of payroll tax.

**For example**, an employee who earned \$4,000 per month in gross wages, from which \$500 in federal taxes was withheld, would count as \$4,000 in payroll costs. The employee would receive \$3,500, and \$500 would be paid to the federal government. However, the employer-side federal payroll taxes imposed on the \$4,000 in wages are excluded from payroll costs under the statute.







FAQ #15 (sba.gov)

**Q:** "Should payments that an eligible borrower made to an independent contractor or sole proprietor be included in calculations of the eligible borrower's payroll costs?"

**A:** No. Any amounts that an eligible borrower has paid to an independent contractor or sole proprietor should be excluded from the eligible business's payroll costs. However, an independent contractor or sole proprietor will itself be eligible for a loan under the PPP, if it satisfies the applicable requirements.

FAQ #20 (sba.gov)

**Q:** "The amount of forgiveness of a PPP loan depends on the borrower's payroll costs over an eight-week period; when does that eight-week period begin?"

**A:** The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.





#### Overview

#### \*\*\*Everyone should now have a copy of Form SBA 3508

#### **Loan Forgiveness Application Contents:**

- 11 pages total; 6 of those pages are instructions
- Loan Forgiveness Application
- Schedule A
- Tables A and B

#### **Uncommon Terms:**

- Covered Period
- Reference Period

#### What To Start Today:

- Start gathering information
- Read through the form
- Fill out part of page 3

#### **Completing the Application:**

- Build Table 1 and Table 2
- Calculate your AVG FTE for your 2 reference periods
- Send return to work letters
- Gather your documents
- Watch for further updates





#### Loan Forgiveness Application: (Part One)

#### Information You Must Provide

☐ Business Legal Name ("Borrower")	
☐ Business Contact Information	
☐ SBA PPP Loan Number (assigned at approval)	
☐ Lender PPP Loan Number	
☐ Total PPP Loan Amount received from Lender	
☐ Total number of employees at the time of the PPP Loan Application	
lacktriangle Total number of employees at the time of the PPP Loan Forgiveness Application	
□ Date that PPP Loan was received ("Disbursement Date")	
lacktriangle Economic Injury Disaster Loan (EIDL) Application Date (if the Borrower applied for o	ne)
☐ Date that the EIDL advance was received (if the Borrower received an advance)	





#### Loan Forgiveness Application: (Part Two)

Information You Must Provide

Tigor mattor Tou Must Trootuc
□ Payroll schedule □ Weekly
<ul><li>□ Bi-weekly</li><li>□ Twice a month</li></ul>
<ul><li>☐ Monthly</li><li>☐ Other</li></ul>
q Loan period
q Covered Period (eight-week or 56-day covered period of your PPP Loan)
**The first day of the Covered Period must be the same as the PPP Loan Disbursement Date
<u>OR</u>
q Alternative Payroll Covered Period *** Borrowers with a bi-weekly (or more frequent) payroll schedule can choose to calculate eligible payroll costs using the eight-week or 56-day period that begins on the first day of their first pay period following their PPP Loan Disbursement Date
☐ If Borrower Received PPP Loans in Excess of \$2 Million (together with its affiliates)





#### Loan Forgiveness Application: (Part One)

#### Certifications

Th	The authorized representative of the Borrower certifies to all of the below:			
	Dollar amount for which forgiveness is requested:			
		Was used for payroll costs to retain employees, business mortgage interest payments, business rent or lease payments or		
		business utility payments		
		Includes all applicable reductions due to decreases in the number of FTE employees and salary/wage reductions		
		Does not include nonpayroll costs in excess of 25% of the amount requested		
		Does not exceed eight weeks' worth of 2019 compensation for any owner-employee or self-employed individual/general		
		partner (capped at \$15,385 per individual)		
	The	understanding that if the funds were knowingly used for unauthorized purposes, the federal government may pursue loan		
	recov	very and/or criminal fraud charges		
	That	the Borrower has accurately verified the payments for the eligible payroll and nonpayroll costs		
	That	the Lender has received the required documentation verifying payroll costs, existence of obligations and service prior to		
	2/15/	20, eligible business mortgage interest payments, business rent or lease payments, and business utility payments		





# Loan Forgiveness Application: (Part Two) Certifications

The authorized representative of the Borrower certifies to all of the below:

- ☐ That the information provided in the application is true and correct in all material aspects
- q That the tax documents submitted to the Lender are consistent with what the Borrower has submitted or will submit to the IRS and/or state tax or workforce agency
  - \*\* The Lender can share this information with the SBA's authorized representatives for the purpose of ensuring compliance
- That the SBA may request additional information for the purposes of evaluating the Borrower's eligibility for the PPP Loan and for loan forgiveness, that the Borrower's failure to provide information requested by the SBA may result in a determination that the Borrower was ineligible for the PPP Loan or a denial of the loan forgiveness application





#### Documents for inclusion

The authorized representative of the Borrower must provide all of the below:		
	Name of each covered employee	
	Last 4 SSN for each employee	
	Hourly or salary status for each employee	
	Hourly rate or salary rate for each covered employee on 2/15/20	
	Total wages paid to each covered employee from 2/15/20 to 4/26/20	
	Average hours worked per week in Quarter 1 of 2020 for each covered employee	
	Total wages paid to each covered employee during your covered period	
	Total wages paid to each covered employee during Quarter 1 of 2020	
	Highest gross pay for any pay period for each covered employee during the calendar year 2019	
	Hours worked for each covered employee for each week in your covered period	
	Hours worked for each employee from 2/15/19 - 6/30/19	





#### Forgiveness Amount Calculation – Payroll and Nonpayroll Costs

Line #	Item	Entry
1	Payroll Costs	Total eligible payroll costs during Covered or Alternative Payroll Period (to calculate these costs, complete PPP Schedule A and enter amount on line 10)
2	Business Mortgage Interest Payments	Amount of business mortgage interest payments during Covered Period for any business mortgage obligation on real or personal property incurred before 2/15/20 (do not include pre-payments)
3	Business Rent or Lease Payments	Amount of business rent or lease payments during Covered Period, pursuant to lease agreements in force before 2/15/20
4	Business Utility Payments	Amount of business utility payments during Covered Period, for business utilities for which service began before 2/15/20

\*\*\* For lines 2-4, you are not required to report payments that you do not want to include in the forgiveness amount





Forgiveness Amount Calculation – Adjustments for FTE & Salary/Hourly Wage Reductions

Line #	ltem	Entry
5	Total Salary/Hourly Wage Reduction	Enter in amount from PPP Schedule A, line 3 (reflects loan forgiveness reduction required for salary/hourly wage reductions in excess of 25% for certain employees)
6	Total lines 1 – 4, then subtract from Total Salary/Hourly Wage Reduction	Add lines 1- 4, subtract line 5 and enter the total. If this amount is less than zero, then enter a zero.
7	FTE Reduction Quotient	Enter in amount from PPP Schedule A, Line 13





### Forgiveness Amount Calculation – Final Calculation

Line #	Item	Entry
8	Modified Total	Multiply line 6 by line 7 for the modified total (this incorporates loan forgiveness reduction required for any FTE employee reductions)
9	PPP Loan Amount	Enter PPP Loan Amount
10	Payroll Cost 75% Requirement	Divide line 1 by 0.75 and enter that amount (this determines whether at least 75% of the potential forgiveness amount was used for payroll costs)
11	Forgiveness Amount	Enter the smallest amount of lines 8, 9 and 10
		( <u>Note:</u> if applicable, SBA will deduct EIDL advance amounts from forgiveness amount remitted to the Lender)





#### References:

- Treasury.gov
- SBA.gov
- Garretycpa.com
- www.southeastern.edu/admin/sbdc/

or directly email us at: <a href="mailto:sgarrety@garretycpa.com">sgarrety@garretycpa.com</a>





To learn more about the PPP, visit:

# Regulations.gov 13 CFR Part 120

Business Loan Program Temporary Changes;
Paycheck Protection Program &

13CFR Part 120 Supplemental Information

and **Treasury.gov** for the latest information





#### Remember...







#### Thank you for joining!



Visit our website at: www.garretycpa.com



For more info or questions, you are welcome to contact our office at:

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### Thank You!

Your feedback is important to us. A survey will be sent following the webinar.

#### For questions or more information, contact your local SBDC.

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