

Paycheck Protection Program: Forgiveness, New “EZ” Application and Additional Important Updates

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Meet Our Speakers



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The Paycheck Protection Program (The Wild Ride to Date)

March 27th

CARES Act passes enacting the program

April 3rd – April 16th

The Mad Dash

1.7 million loans are processed

\$349 billion of original funding spoken for

April 24th

Second Round

PPP Enhancement Act adds \$310 billion of funding.

May 15th

Now we know the Rules?

Loan forgiveness application released

June 5th

Game Changer

PPP Flexibility Act signed into law

June 17th

Are we there yet?

New forgiveness applications (including EZ form) and instructions published

Along the way, **48** frequently asked questions and **19** Interim Final Rules were published by the SBA.

PPP Flexibility Act of 2020 Passes

- Extending the covered period for PPP loan forgiveness from eight weeks from the date of origination to the earlier of 24 weeks from the origination date or December 31, 2020. A borrower who received a loan before the bill's enactment could elect to continue using the 8-week covered period.
- Providing that at least 60 percent of PPP loan proceeds should be used for payroll costs to receive loan forgiveness (overturning the 75 percent standard set forth by the Small Business Administration (SBA) and U.S. Treasury Department). SBA clarified that there is no “cliff” provision where spending less than 60% of loan proceeds on payroll equals zero forgiveness.
- Additional FTE exemption added if the borrower is able to document in good faith an inability to return to the same level of business activity at which the borrower was operating before February 15, 2020, due to compliance with federal governmental requirements or guidance set forth between March 1, 2020, and December 31, 2020, relating to standards of sanitation, social distancing, or other worker or customer safety requirements due to COVID-19.
- Extending the deadline for the re-hire exception to forgiveness reduction in the loan forgiveness provisions from June 30, 2020, to December 31, 2020.

PPP Flexibility Act of 2020 Passes

- Extending the minimum maturity of PPP loans to five years. This would take effect on the date of the bill's enactment and apply to any PPP loan made on or after such a date; however, lenders and borrowers would not be prohibited from mutually agreeing to modify the maturity terms of prior-disbursed PPP loans.
- Eliminating the six-month deferral of payments due under PPP loans and replacing it with deferral until the date on which the amount of forgiveness determined under the CARES Act is remitted to the lender. If a borrower fails to apply for forgiveness within 10 months after the last day of the PPP loan forgiveness covered period (i.e., the earlier of 24 weeks from origination or December 31, 2020), the borrower must then begin to make payments of principal, interest, and fees on its PPP loan.
- Allowing all employers to take advantage of the CARES Act deferral of the 6.2 percent employer portion of social security payroll taxes, regardless of whether they have had a PPP loan forgiven.
- Interim Final Rule clarified maximum forgivable compensation for 24-week coverage period is as follows:

Non-owner employees: \$46,154 for non-owner employees

Owner employees: Lesser of 2.5 months of 2019 compensation or \$20,833

EZ Application for Forgiveness

Form 3508EZ – eligible for use by:

1. Self-employed with no employees
 2. Borrower did not reduce annual salary or hourly wage rate by > 25% AND did not reduce FTEs (or met exemptions for rehire) OR
 3. Borrower did not reduce annual salary or hourly wage rate by > 25% AND borrower was unable to operate at same level due to government regulations
- No Schedule A submission
 - Spending documentation required to be submitted is same
 - No FTE documentation required to be submitted (but should be maintained)

The Paycheck Protection Program – Borrower's View

Maximize Forgiveness

- Meet Spending Qualifications
 - ✓ Payroll costs at least 60%
 - ✓ Nonpayroll costs paid and/or incurred during 24-weeks ; subject to 40% limitation
- Avoid or limit salary reduction – Salary or hourly pay rate at least 75% of rate in effect in Q1.
- Avoid or limit FTE reduction ratio

The Paycheck Protection Program – Borrower's View

FTE reduction ratio will NOT apply in any of the following circumstances:

- If FTEs or average paid hours are NOT reduced between January 1, 2020 and end of Covered Period, no FTE reduction is required.
- Safe Harbor 1: Unable to operate between February 15, 2020 and end of covered period at same level due to compliance with HHS, CDC, OSHA COVID-19 requirements.
- Safe Harbor 2:
 - 1) Borrower reduced its FTEs in the period starting February 15, 2020 and ending April 26, 2020 and
 - 2) Borrower restored FTEs by earlier of December 31, 2020 or date of forgiveness application to the level in pay period that includes February 15, 2020.

The Paycheck Protection Program – Borrower’s View

Maximize Forgiveness - FTE reduction ratio

If safe harbors are not met, FTE ratio reduction is calculated as follows:


$$\frac{\text{Average FTE during covered period}^1}{\text{Average FTE during chosen reference period}^2}$$

¹ If FTEs are reduced because of one of the qualifying exceptions (good-faith written offer to rehire was rejected, fired for cause, voluntary resigned, government restrictions, etc.), these employees can be included in the average FTE numerator.

² Choose lower of 3

- i. February 15, 2019 to June 30, 2019
- ii. January 1, 2020 to February 29, 2020
- iii. If seasonal, chosen consecutive twelve-week period between May 1, 2019 and September 15, 2019

Applications


Paycheck Protection Program
Loan Forgiveness Application Revised June 16, 2020

OMB Control Number 3245-0407
 Expiration Date: 10/31/2020

PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")		DBA or Tradename, if applicable	
Business Address		Business TIN (EIN, SSN)	Business Phone
		() -	
		Primary Contact	E-mail Address

SBA PPP Loan Number: _____ Lender PPP Loan Number: _____
 PPP Loan Amount: _____ PPP Loan Disbursement Date: _____
 Employees at Time of Loan Application: _____ Employees at Time of Forgiveness Application: _____
 EIDL Advance Amount: _____ EIDL Application Number: _____
 Payroll Schedule: The frequency with which payroll is paid to employees is:
 Weekly Biweekly (every other week) Twice a month Monthly Other _____
 Covered Period: _____ to _____
 Alternative Payroll Covered Period, if applicable: _____ to _____
 If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here:

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10): _____

Line 2. Business Mortgage Interest Payments: _____

Line 3. Business Rent or Lease Payments: _____

Line 4. Business Utility Payments: _____

Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions

Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3): _____

Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5: _____

Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13): _____

Potential Forgiveness Amounts

Line 8. Modified Total (multiply line 6 by line 7): _____


Line 9. PPP Loan Amount: _____

Line 10. Payroll Cost 60% Requirement (divide line 1 by 0.60): _____

Forgiveness Amount

Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10): _____

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LOAN FORGIVENESS APPLICATION INSTRUCTIONS FOR BORROWERS

To apply for forgiveness of your Paycheck Protection Program (PPP) loan, you (the Borrower) may use the Form 3508EZ application or complete this application as directed in these instructions, and submit it to your Lender (or the Lender that is servicing your loan). Borrowers may also complete their application electronically through their Lender.

This application has the following components: (1) the PPP Loan Forgiveness Calculation Form; (2) PPP Schedule A; (3) the PPP Schedule A Worksheet; and (4) the (optional) PPP Borrower Demographic Information Form. All Borrowers must submit (1) and (2) to their Lender.

Instructions for PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")/DBA or Tradename (if applicable)/Business TIN (EIN, SSN): Enter the same information as on your Borrower Application Form (SBA Form 2483 or lender's equivalent).

Business Address/Business Phone/Primary Contact/E-mail Address: Enter the same information as on your Borrower Application Form, unless there has been a change in address or contact information.

SBA PPP Loan Number: Enter the loan number assigned by SBA at the time of loan approval. Request this number from the Lender if necessary.

Lender PPP Loan Number: Enter the loan number assigned to the PPP loan by the Lender.

PPP Loan Amount: Enter the disbursed principal amount of the PPP loan (the total loan amount you received from the Lender).

Employees at Time of Loan Application: Enter the total number of employees at the time of the Borrower's PPP Loan Application.

Employees at Time of Forgiveness Application: Enter the total number of employees at the time the Borrower is applying for loan forgiveness.

PPP Loan Disbursement Date: Enter the date that you received the PPP loan proceeds from the Lender. If loan proceeds were received on more than one date, enter the first date on which you received PPP loan proceeds.

EIDL Advance Amount: If the Borrower received an Economic Injury Disaster Loan (EIDL) advance, enter the amount.

EIDL Application Number: If the Borrower applied for an EIDL, enter the Borrower's EIDL Application Number.

Payroll Schedule: Select the box that corresponds to your payroll schedule.

Covered Period: **The Covered Period is either (1) the 24-week (168-day) period beginning on the PPP Loan Disbursement Date, or (2) if the Borrower received its PPP loan before June 5, 2020, the Borrower may elect to use an eight-week (56-day) Covered Period.** For example, if the Borrower is using a 24-week Covered Period and received its PPP loan proceeds on Monday, April 20, the first day of the Covered Period is April 20 and the last day of the Covered Period is Sunday, October 4. In no event may the Covered Period extend beyond December 31, 2020.

Alternative Payroll Covered Period: For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the 24-week (168-day) period (or for loans received before June 5, 2020 at the election of the borrower, the eight-week (56-day) period) that begins on the first day of their first pay period following their PPP Loan Disbursement Date. For example, if the Borrower is using a 24-week Alternative Payroll Covered Period and received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, October 10. Borrowers that elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in this application to "the Covered Period or the Alternative Payroll Covered Period." However, Borrowers must apply the Covered Period (not the Alternative Payroll Covered Period) wherever there is a reference in this application to "the Covered Period" only. In no event may the Alternative Payroll Covered Period extend beyond December 31, 2020.

If Borrower Received PPP Loans in Excess of \$2 Million: Check the box if the Borrower, together with its affiliates (to the extent required under SBA's interim final rule on affiliates (85 FR 20817 (April 15, 2020)) and not waived under 15 U.S.C. 636(a)(36)(D)(iv)), received PPP loans with an original principal amount in excess of \$2 million.

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The Paycheck Protection Program – Borrower's View

Hot Topics / Unknowns

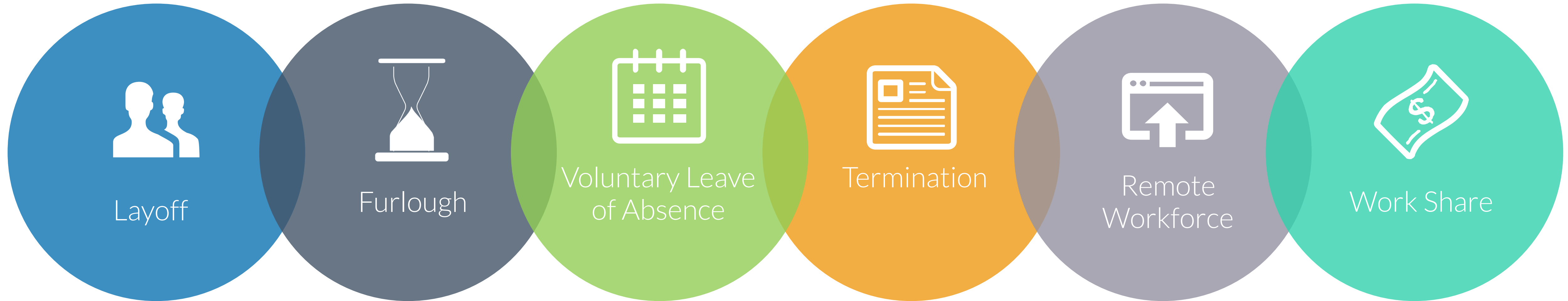
- Certification of need – > \$2 million loans subject to audit.
- Privacy - Secretary Mnuchin has stated borrower's identities will remain confidential. Application indicated names of borrowers and amounts of loans are subject to Freedom of Information requests.
- Automatic forgiveness if loans below a certain threshold? House Small Business Committee hearing on 06/17/2020.
- Current IRS guidance states §265 results in no tax deductions for the expenses related to the forgiveness. Questions remain about timing (e.g., fiscal year ends prior to forgiveness determination) or whether legislative changes will be made.



Workforce Planning Options

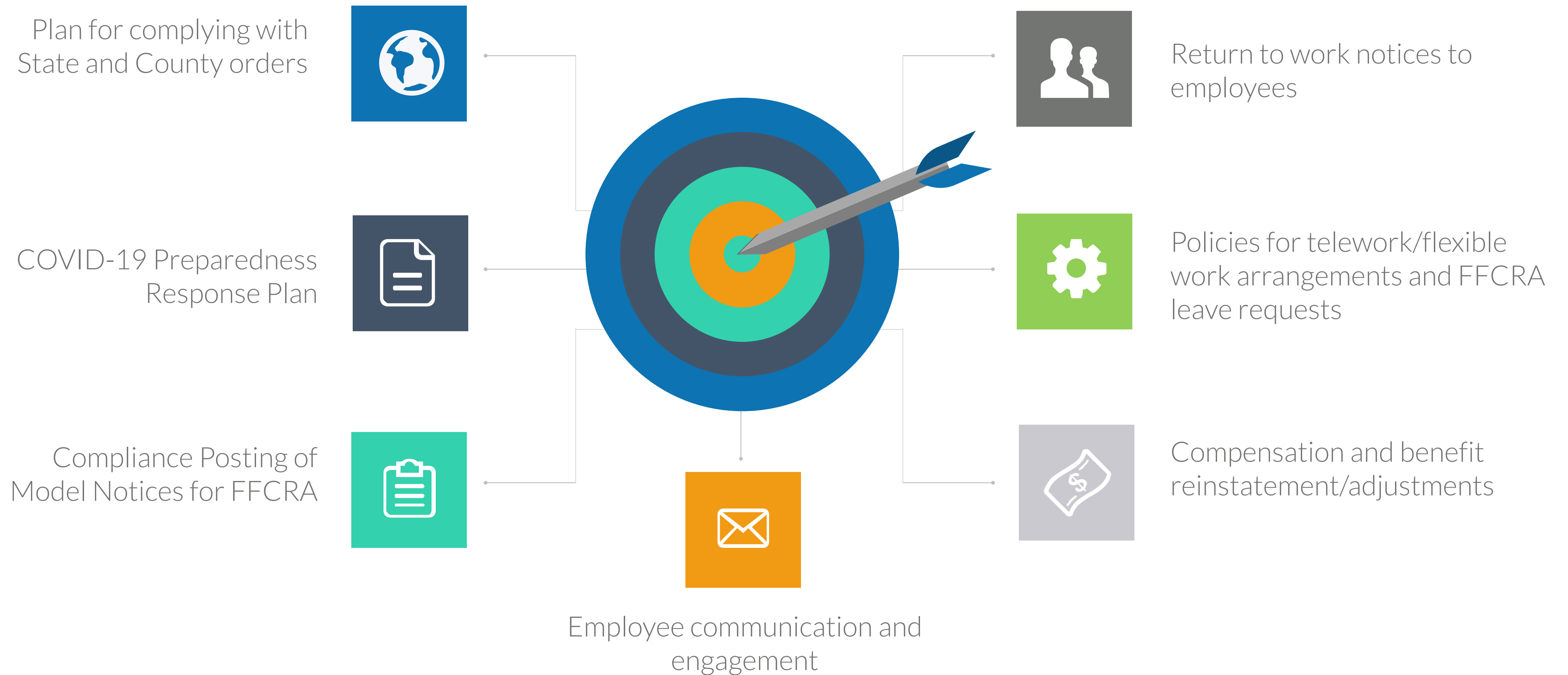
Workforce Planning Options

Business leaders considered options that best balance the business with employee needs and safety.



Continuing and Reopening Operations

Seven key areas employers need to address:



Q&A and Additional Resources



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Rehmann professionals are prepared and ready to provide you with insight, expertise and the solutions you need.

For additional resources (webinars, podcasts, articles, etc.):

www.Rehmann.com/COVID-19