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# PPP Rules on Rehiring Employees (FAQ)

## [Click Here for an Informative Video on Re-Hiring](#)

If you're applying for the Paycheck Protection Program—and you want to have your **loan forgiven**—you will need to maintain your previous employee headcount and salary levels.

That's easier said than done, since lots of businesses have complicated employee situations. Here are some of the most common questions we've heard around PPP and employee rehiring.

### **I laid off my employees in March. Can I rehire them with PPP funds?**

Yes! If you had previously laid off your employees, you can go ahead and rehire them using PPP funds. That is actually the intended purpose of the PPP.

If you reinstate your FTE count by December 31, you qualify for full forgiveness on your payroll costs. Otherwise, you will need to pay back a portion of costs.

### **What happens if I only hire back some of my employees?**

If by December 31, you only hire back some but not all of your employees using PPP funds, you won't be able to have your full PPP loan amount forgiven. The forgivable amount will decrease in proportion to the ratio between your headcount, or full-time equivalents (FTE), during the forgivable period and your pre-pandemic FTE.

Let's say you have three full-time employees and they each made \$3,000 per month, meaning your PPP loan amount was \$22,500 ( $3000 \times 3 \times 2.5$ ). You had to lay them off in February due to COVID-19.

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If you only hire back two out of the three employees, your workforce is 67% (two thirds) of your original headcount.

Over the 24 weeks of the PPP period, you spend \$36,000 on your employees, more than your PPP loan amount. You claim the full \$22,500 of your loan for forgiveness.

If we assume you do not qualify for any rehiring exemptions, when it comes to calculating your forgivable amount, because your workforce is smaller, your forgivable amount will be multiplied by 0.67. You would be able to have \$15,075 forgiven.

### **What happens if I want to hire back all my employees, but some reject the offer?**

Short answer: that's okay—it won't affect your forgiveness levels.

But you have to meet the following qualifications:

- You must have made an written offer to rehire in good faith (either through email or a physical offer on paper)
- You must have offered to rehire for the same salary/wage and number of hours as before they were laid off
- You must have documentation of the employee's rejection of the offer (again, email proof is fine, or even better, a written document with the employee's signature showing they reject the offer)

You can also qualify for an exemption if any of these conditions apply to one of your employees:

- They were were fired for cause
- They voluntarily resigned
- They voluntarily requested and received a reduction of their hours

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Note that employees who reject offers for re-employment may no longer be eligible for continued unemployment benefits. Generally, unemployment agencies require you to regularly check in with them on your job application status. If you report that you rejected a “suitable” job offer while on unemployment benefits, your benefits may be taken away.

The SBA also requires you to report the rejection of rehire to your state’s labor or unemployment office within 30 days of the rejection. Processes on how to do so will vary by state.

### **My employees are collecting EI. Can I still rehire them?**

Yes, the PPP funds are meant to encourage you, the employer, to rehire any staff that you may have had to lay off due to the initial impacts of COVID-19.

The U.S. Department of Labor notes that employees should not refuse work simply because their unemployment benefits are higher than the amount they would earn from employment. However, if an employee refuses to return to work after your good-faith offer to rehire, your forgiveness amount will not be negatively impacted, provided that documentation is kept. Employers can [report suspected EI fraud online](#).

Once an employee receives pay, they should report their income to the state’s Department of Labor. If unemployment benefits and payroll are being received in the same period of time, the unemployment office will make the appropriate calculations and the employee may be asked to return a portion or all of the unemployment benefits.

### **My business just uses contractors. Can I hire them onto payroll and pay them with PPP funds?**

Yes, possibly.

Your PPP loan amount is determined by your 2019 payroll numbers (or net profit numbers if you’re self-employed). So if you had three employees in 2019 who made \$3,000 each month, you will need to keep those three employees on payroll at the same salary.

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You are welcome to hire your contractors as employees, but as they were not on your payroll records pre-COVID, you might not have much funds left over to pay your new employees. But the current forgiveness guidance does not prohibit hiring new employees.

### **Do I have to rehire the same employees? Or can I keep my headcount the same, but with different people?**

From the guidance released so far, it appears you don't have to rehire the same employees. The SBA's forgiveness application does not make a distinction between new and existing employees.

Note that if you're having a hard time getting your former employees back to work, you're not *required* to bring on new employees just to meet your headcount numbers—the SBA has provided some leniency in that case.

### **Can I restructure compensation in my business? Can I pay myself more and my employees less?**

This situation isn't specifically covered by the official U.S. Treasury guidance. However, it does seem to go against the spirit of the program, which involves keeping headcount and salary levels at the same pre-COVID levels. You would be safer leaving all compensation the way it was before.

If you have employees who are being paid less than 75% of their base salary or wage between January 1 and March 31, 2020, you will see a reduction in your forgiveness amount, unless you qualify for an exemption.

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## **Can I use PPP funds to give my employees bonuses?**

Yes! The SBA has finally clarified that bonuses paid to employees, including hazard pay and commissions, are eligible for forgiveness.

However, bonus pay is considered one part of total compensation, which cannot exceed an annualized rate of \$100,000 (or \$15,385 for an eight-week period, \$46,154 for a 24-week period). In other words, if you were already paying your employee \$100,000 per year, you can't add a bonus on top of that and get it forgiven.

## **Once my PPP funds run out, can I make layoffs again?**

Yes. If after the 24 weeks the PPP covers, your business's financial situation has not improved, or the PPP funds have run out, you are able to put employees on furlough or lay them off if necessary. The employees would be eligible to claim unemployment benefits.

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