

PPP New FAQ, Rehire Offer Rejected

Certain employers have been concerned that even though they are ready to re-hire with their PPP funds, there may be employees who do not want to come back. Especially for lower paid employees, the money they are making with expanded unemployment benefits may be the same or higher than what they were being paid working.

This FAQ #40 posted yesterday is good news for employers whose former employees reject their rehire offer – so long as the offer and the offer rejection is documented. The FAQ also points out that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

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.

We are still waiting for the PPP forgiveness guidance to come out, and will let you know as soon as it does.

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