

New Questionnaire for Larger PPP Borrowers

The U.S. Small Business Administration (SBA) continues to release additional details related to forgiveness of its Paycheck Protection Program (PPP) loans.

PPP Loans Greater than \$2 Million

On October 28, 2020, the SBA announced it had developed two loan necessity questionnaires it will be using to facilitate the collection of supplemental information its reviewers will use to evaluate borrowers' good-faith certifications made on their original loan application. Form 3509 is the questionnaire for a for-profit borrower and Form 3510 is for not-for-profit borrowers. Each borrower that—together with its affiliates—received PPP loans with an original principal sum of \$2 million or more will be required to complete the questionnaire. After a borrower's lender has submitted its forgiveness decision to the SBA, the SBA will then send a notification letter to the lender requesting that the borrower complete the questionnaire and provide the requested documentation. The lender must notify the borrower of the SBA's review and its request to complete the questionnaire. The borrower then has 10 days to complete and submit—with the required support—to the lender.

After submission, the SBA may request additional information to complete its review. The SBA's determination will be based on the totality of a borrower's circumstances. Failure to complete the form or provide the required supporting documents may result in the SBA's determination that a borrower was ineligible for the PPP loan, the PPP loan amount, or any forgiveness amount claimed, and the SBA may seek loan repayment or pursue other available remedies.

The questions are primarily Yes or No response questions, with a Yes response generally requiring a response to one or more follow-up questions. There are two sections to the 3509 and 3510 forms, Business Activity Assessment and Liquidity Assessment. At the end of the two sections, there is space for a borrower to provide any other information or context that the borrower desires, limited to 1,000 words.

The two versions of the questionnaires can be found at the following links:

- [Form 3509](#) will be used by for-profit borrowers
- [Form 3510](#) will be used by nonprofit borrowers

The forms provide the first insight into the SBA's review process of the certification of necessity. While the questions asked seem relatively straightforward, borrowers may want to consider review of their responses, especially any information volunteered in the two free form sections noted above, with their attorney. 29,000 of the 5.2 million PPP loans issued are greater than \$2 million; however, the dollar value of these loans is \$105 billion or 20 percent of the total PPP loans approved of \$525 billion.

Lenders are not required to verify or validate any of the borrower's responses or supporting documents to these questionnaires.

PPP Loans Less than \$50,000

On October 9, 2020, the SBA issued an [interim final rule](#) that revises previous guidance to provide relief on the forgiveness process for small borrowers with PPP loans of \$50,000 or less (see BKD article "[New Rules & Forgiveness Form for PPP Loans of \\$50,000 or Less & Lender Responsibilities](#)").

There are approximately 3.6 million outstanding PPP loans of \$50,000 or less, almost 70 percent of the 5.2 million loans issued. The total of these loans is approximately \$62 billion.

Conclusion

It is unclear when—and if—another round of PPP will pass Congress and be signed into law. Congress has remained deadlocked for months over new COVID-19 relief, with a second “skinny stimulus” failing to pass the Senate on October 22, 2020. An updated HEROES Act, which passed the House in early October, did not get a vote in the Senate, and other attempts by both parties to work out a deal have so far failed to gain the support needed for passage.

BKD will continue to follow this developing situation. As with most topics related to COVID-19, changes are being made rapidly. Please note that this information is current as of the date of publication. Visit [BKD's COVID-19 Resource Center](#) to learn more. If you have questions about these changes, contact your **BKD Trusted Advisor**™ today.

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