

SBA Announces Loan Necessity Questionnaires for PPP Loans of \$2 Million or Greater

Description

The Small Business Administration has announced in the Federal Register the release of two proposed questionnaires for recipients of Paycheck Protection Program (PPP) loans of \$2 million or greater. One questionnaire will collect information from for-profit borrowers, and the other questionnaire is for non-profits. The questionnaires have not been posted to the SBA's website but are available here: [SBA Form 3509 – For-profits](#) and [SBA Form 3510 – Non-profits](#)

When applying for PPP loans, all applicants were required to make a good faith certification that current economic uncertainty made the loan request necessary to support the ongoing operations of the applicant. In May, the SBA released guidance stating that a borrower that received a PPP loan with an original principal amount of under \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith. This safe harbor, however, did not apply to borrowers with loans of \$2 million or greater, which the SBA stated will be subject to review for compliance. The draft questionnaires are intended to solicit information for the SBA to check for such compliance.

The questionnaires ask for information and backup documentation regarding receipts, expenses, operations, required closures, and liquidity, among others. In their current forms, the questionnaires state that they must be completed and returned to the PPP lender within ten business days of receipt by the borrower. The lender then has five business days to upload the form and documents to the SBA PPP Forgiveness Platform (forgiveness.sba.gov) and separately input the responses to each question into the web form available in the platform.

Failure to complete the applicable form and provide the required supporting documents may result in SBA's determination that a borrower was ineligible for either the PPP loan, the PPP loan amount, or any forgiveness amount claimed, and the SBA may seek repayment of the loan or pursue other available remedies.

Given the short timeframe to complete the forms, it would be prudent for PPP borrowers to begin assembling answers and required backup documents to facilitate a timely response once the questionnaires are finalized and officially released.

The SBA is seeking comments on the draft questionnaires from interested parties until November 25, 2020.

The [Business Law Group](#) at Partridge Snow & Hahn are ready to answer questions you may have about these proposed questionnaires and PPP loans.

Date Created

November 10, 2020