

SBA to Begin Accepting PPP Forgiveness Applications on August 10

On July 23, the Small Business Administration issued a procedural notice to lenders participating in the Paycheck Protection Program concerning PPP loan forgiveness, to announce that SBA will begin accepting forgiveness applications from lenders on August 10. The SBA released the current versions of the forgiveness applications (SBA Form 3508 and Form 3508EZ) in June. Before the procedural notice, the agency had not said when forgiveness applications would be accepted or how lenders could transmit applications to the SBA for processing. Other than filling in these procedural gaps, the notice is generally consistent with previous SBA guidance, which has been discussed in prior Cozen O'Connor alerts. Here are the highlights.

Lenders may begin submitting forgiveness applications to SBA through an online platform that will open on August 10, subject to extension if any new legislative amendments to the forgiveness process are adopted that would necessitate changes to the system. The platform will only be open to lenders, and not individual PPP borrowers. According to the procedural notice, the SBA plans to email instructions for using the portal to lenders prior to this date, and the SBA will post a link to the platform on its website.

The borrower prepares the forgiveness application and submits it to the lender. Importantly, the procedural notice makes clear that calculating the specific forgiveness amount remains the borrower's responsibility. The lender is expected to "perform a good-faith review, in a reasonable time, of the borrowers' calculations and supporting documents." If the lender identifies errors or other issues, it is to work with the borrower to remedy the situation before it goes to SBA. The lender has up to 60 days in which to review the application and submit it to SBA. The lender must submit to SBA certain required certifications and supporting documentation, along with the lender's decision to approve, in whole or in part, or deny the borrower's application.

SBA then has up to 90 days in which to process the application and to remit to the lender the appropriate forgiveness amount, with interest through the date of payment. The lender will notify the borrower of the SBA's decision. If any amount remains unforgiven, the borrower begins equal monthly payments of principal and interest over 18 months.

SBA may review a loan of any size, in its discretion. SBA has previously stated it intends to automatically review all loans over \$2 million. This review may include eligibility as well as the forgiveness request. If SBA decides to review a loan, it will notify the lender, and the lender must notify the borrower within 5 business days. The lender must submit certain additional information to SBA. SBA may request additional information from the lender or the borrower. SBA will notify the lender of its determination, and the lender will notify the borrower.

The borrower has the right to appeal a denial within 30 days. Once a lender receives an appeal, it has five days to transmit it to the SBA. The SBA says it will issue interim rules on this process "shortly."

While lenders will be allowed to start submitting forgiveness applications to the SBA on August 10, and many borrowers are understandably anxious to complete this process as soon as possible, it is important to note that August 10 is not a deadline for PPP borrowers to submit their applications and supporting materials to their lenders. The only deadline for borrowers in the CARES Act and SBA rules remains 10 months after the borrower's chosen covered period ends (either eight or 24 weeks after loan disbursement), at which point the funds become a loan that must be repaid. If a borrower submits a forgiveness application within those 10 months, they may continue to defer payments until the SBA either forgives some or all of the loan or denies it.



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