

New Rules Issued Clarifying PPP Loan Forgiveness, Lender Responsibilities and SBA Review

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On May 22, the SBA and Treasury released two additional interim final rules (IFRs) on PPP loan forgiveness, providing specific guidance to borrowers and lenders regarding their responsibilities, as well as information on the SBA's process for reviewing loans for eligibility, use of proceeds and forgiveness amounts. Significantly, the guidance clarifies that the lender will be responsible, subject to review by the SBA, for determining whether the borrower is eligible for loan forgiveness and, if so, the loan forgiveness amount. Although lenders may rely on borrower certifications and documentation, the guidance underscores that lenders still must review and confirm that information in making their determinations. The guidance also makes clear that the SBA may review any PPP loan at any time.

Both borrowers and lenders should familiarize themselves with this new guidance to avoid complications or delays during the loan forgiveness process or any SBA review of the PPP loan.

The [first IFR](#) concerns loan forgiveness requirements and provides additional guidance on [the previously released loan forgiveness application](#). The [second IFR](#) provides guidance on the SBA loan review process and borrower and lender responsibilities. New guidance and points of clarification include:

- Lenders have 60 days after receipt of a completed loan forgiveness application to issue a decision to the SBA. The decision will either be (1) an approval (in whole or in part); (2) a denial; or (3) a denial without prejudice due to a pending review by SBA (if directed by the SBA).
- Lenders must confirm receipt of borrower certifications and required documentation, as well as confirm the borrower's calculations on the loan forgiveness application. Lenders "are expected to perform a good-faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning amounts eligible for loan forgiveness."
- If a lender has determined that a loan is entitled to be forgiven in whole or in part, the lender must request payment from the SBA at the time the lender issues its decision to SBA. The SBA will remit the appropriate forgiveness amount to the lender within 90 days, subject to any SBA review of the loan or loan application.

- If the SBA decides to review a PPP loan, it will notify the lender in writing. The lender must then notify the borrower within 5 business days. The lender may not approve a borrower's loan forgiveness applications until SBA notifies the lender it has completed its review of that borrower's application.
- Borrowers will have an opportunity to respond to an SBA review. If a review is initiated and it is determined that the borrower may be ineligible, the SBA will require the lender to contact the borrower and request additional information. The SBA may also contact the borrower directly.
- Borrowers may appeal the SBA's review decision. The procedures for this appeal process will be issued in a future IFR.
- Borrowers who are dissatisfied with a lender's forgiveness determination may request review of the application by the SBA within 30 days of receiving the determination notice from the lender.
- If the SBA determines that a borrower was ineligible for a PPP loan, the lender is no longer eligible to receive a processing fee for the loan. If the lender has already received a processing fee, the fee is subject to clawback by the SBA. However, the SBA's guaranty of the loan is not affected as long as the lender has complied with its obligations under the [SBA's April 2 IFR](#).
- If the SBA determines a lender failed to satisfy its requirements under the applicable IFR's or related documents, SBA may seek repayment of the processing fee and may determine the loan is not eligible for a guaranty.

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