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## PPP loan forgiveness: 5 things to know

By Lance Traweek, Managing Editor

With the third round of Paycheck Protection Program loans being disbursed, it's crucial for business owners to be aware of the loan forgiveness process, according to Richard A. Aguilar, a member in McGlinchey's New Orleans office. Aguilar, who delves into key factors such as timing and deadlines, provides the top five things for borrowers to know about PPP loan forgiveness.

### What is the first step for PPP loan forgiveness?

A PPP borrower must complete and submit its Loan Forgiveness Application to its lender. A separate application must be submitted for each of the loans obtained under the CARES Act and the Economic Aid Act. Borrowers with loans of (a) more than \$150,000 must retain PPP documentation for six years after loan forgiveness or repayment, and (b) \$150,000 or less must retain employment records for four years and all other records for three years after submission of its Loan Forgiveness Application.

### When must a PPP borrower apply for loan forgiveness or start making payments?

A borrower may submit a Loan Forgiveness Application any time on or before the maturity date of the loan if the borrower has used all of the loan proceeds for which the borrower is requesting forgiveness. If a PPP borrower obtained a loan under the CARES Act and another in excess of \$150,000 under the Economic Aid Act, then the Loan Forgiveness Application for the CARES Act loan must be submitted before or simultaneously with the forgiveness application for the Economic Aid Act loan. If the borrower does not apply for loan forgiveness within 10 months after the last day of the period during which the loan proceeds were required to be used, the PPP loan is no longer deferred and the borrower must begin paying principal and interest.

### What happens after submission of the Loan Forgiveness Application?

Generally, a lender will review the application, make a decision regarding loan forgiveness and issue its decision to the SBA within 60 days after the lender's receipt of the complete application. If the lender determines that the borrower is entitled to forgiveness of some or all of the loan amount, the lender will also request payment from the SBA at that time.



Aguilar

### Once the lender submits its decision to the SBA, what can happen?

Not later than 90 days after the lender issues its decision to the SBA, the SBA will review the loan information and decide whether the full amount, a portion, or none of the loan is forgiven. If the request to forgive any portion of the loan is denied, the balance due on the loan must be repaid by the borrower by the loan's maturity date. The lender will notify the

borrower of the loan forgiveness amount or that no amount is forgiven, and the date on which the borrower's first payment is due, if applicable. If the SBA determines that the full amount of the loan is forgiven, it will pay the loan amount to the lender and the lender will mark the PPP loan note as "paid in full."

### What are the SBA's review and audit rights? May the borrower appeal?

The SBA may review and audit any PPP loan at any time and request information from the borrower. The SBA will pay special attention to loans of \$2 million or more. During its review, the SBA may focus on, among other things, whether the PPP borrower:

1. Correctly certified its eligibility for the PPP loan in its loan application;
2. Correctly calculated the amount of its loan;
3. Correctly used the loan proceeds for allowable purposes; and
4. Correctly calculated the amount claimed in its Loan Forgiveness Application.

With regard to eligibility, the borrower has 10 business days to complete any Loan Necessity Questionnaire issued to it by the SBA.

The PPP borrower may appeal the SBA's determination that the borrower (1) was ineligible for a PPP loan, (2) was ineligible for the PPP loan amount received, (3) used the PPP loan proceeds for unauthorized uses, or (4) is ineligible for PPP loan forgiveness.