

SBA Releases PPP Necessity Questionnaires

By Bruce L. Blasnik, CPA, CGMA, Partner

The U.S. Small Business Administration (SBA) announced last week that it will be issuing Loan Necessity Questionnaires to Paycheck Protection Program (PPP) Borrowers that, together with their affiliates, received PPP loans with an original principal amount of \$2 million or more. According to the SBA, the purpose of these questionnaires is to facilitate the collection of supplemental information that will be used by SBA loan reviewers to evaluate the good-faith certification that Borrowers made on their PPP loan application forms that economic uncertainty made the loan request necessary. Two different versions of the loan Necessity Questionnaire have been released, [Form 3509](#) for for-profit Borrowers and [Form 3510](#) for not-for-profit Borrowers.

Assessment Forms

The forms have two sections: the Business Activity Assessment and the Liquidity Assessment:

- The **Business Activity Assessment** section requests information about the Borrower's revenues during the 2nd calendar quarter and other aspects of the Borrower's operations from March 13, 2020 through the end of the PPP loan covered period.
- The **Liquidity Assessment** section requests the following:
 - For for-profit Borrowers, the Liquidity Assessment section requests information about cash balances on the last day of the calendar quarter before receiving the PPP loan, capital structure, institutional ownership, accelerated loan repayments, salaries paid in excess of \$250,000, dividend distributions (other than for estimated tax payments of flow-through entities), capital expenditures and other sources of relief funding.
 - The liquidity information requested from not-for-profit Borrowers is similar to that of for-profit Borrowers, with the focus on endowment and reserve balances as opposed to capital structure and distributions, and specific additional questions for schools and health care providers.

Timely Submission

Borrowers will be required to complete the form and return it to the lender servicing their PPP loan within ten business days of the request for the form, which will presumably be some time shortly after the PPP loan forgiveness application is submitted. The SBA notes that receipt of the form does not mean the SBA is challenging the Borrower's certification of need. Rather, the information is being requested to facilitate their review of that certification.

Once the form is submitted, the SBA may request additional information in order to complete their review. Failure to complete the form and provide the requested documentation on a timely basis may result in the SBA determining that the Borrower was ineligible for the loan, in whole or in part, or for forgiveness.

Somewhat Inconsistent

It's certainly no surprise that the SBA is looking for this information to assess the need of large Borrowers, as it has been quite clear since early May that the SBA would be reviewing the need of all Borrowers with loans of \$2 million or more. The focus on business activity subsequent to receiving the PPP loan, however, does seem somewhat inconsistent with a Borrower's certification of need based on economic uncertainty that existed at the time the loan application was submitted, particularly given the fact the businesses were being encouraged to take the loan and retain their employees in lieu of laying them off. Nonetheless, this

may be reason for some Borrowers who, together with their affiliates, have loans of \$2 million or more to reconsider their choice of the 8-week or 24-week covered period.

Exit Note

The Paycheck Protection Program – with all its twists and turns – continues to evolve. We've seen a number of mishits and retractions in the past; perhaps this will be another one. Our advice, particularly for larger Borrowers, is to continue to be patient and not to rush to file your forgiveness application. In the meantime, while the Loan Necessity Questionnaires may change, it makes sense for Borrowers with loans over \$2 million (including affiliates) to familiarize themselves with these new questionnaires and begin assembling the documentation and thinking about responses.

Submit Comments

There is 30-day public comment period on these forms, which remains open until November 25, 2020. If you are interested in submitting comments, more information is available in the [Federal Register](#).

Contact Us

For assistance in understanding these and any other rules related to the PPP loan, please reach out to your PKF O'Connor Davies team members, or email us at LoanForgiveness@pkfod.com. We are here to help.

About PKF O'Connor Davies

PKF O'Connor Davies, LLP is a full-service certified public accounting and advisory firm with a long history of serving clients both domestically and internationally. With roots tracing to 1891, twelve offices in New York, New Jersey, Connecticut, Maryland and Rhode Island, and more than 800 professionals, the Firm provides a complete range of accounting, auditing, tax and management advisory services. PKF O'Connor Davies is ranked 27th on *Accounting Today's* 2020 "Top 100 Firms" list. It is also ranked among the top 20 best accounting employers to work for in North America by *Vault*.

PKF O'Connor Davies is the lead North American representative in PKF International, a global network of legally independent accounting and advisory firms located in over 400 locations, in 150 countries around the world.

Our Firm provides the information in this e-newsletter for general guidance only, and it does not constitute the provision of legal advice, tax advice, accounting services, or professional consulting of any kind.