



PP&Co Action Alert

SBA Updates PPP Loan FAQ to Address 'Good Faith' Certification

On Wednesday, May 13th, the [U.S. Small Business Administration \(SBA\) updated its FAQ](#) to include much needed guidance regarding 'good faith certification' of Paycheck Protection Program (PPP) loans. Initially, the SBA specified that Paycheck Protection Loan (PPL) borrowers must demonstrate that "current economic uncertainty makes this loan request necessary to support the ongoing operations..." The updated guidance, in the form of added FAQ #46, clarifies and segregates loan recipients into two categories: those who received below \$2M, and those who received above \$2M. The guidance is as follows:

Borrowers With Loans Below \$2M

- Will not be required to provide additional certification, as they "will be deemed to have made the required certification concerning the necessity of the loan request in good faith."
 - The SBA deems these borrowers to have met the safe harbor as they are "generally less likely to have had access to adequate sources of liquidity" due to the amount of the loans received."
- This approach will help conserve SBA audit resources and direct focus on reviewing larger loans, meaning those above \$2M.

Borrowers With Loans Greater Than \$2 million

- These borrowers do not automatically satisfy this safe harbor
 - They may still have "an adequate basis for making the required good-faith certification, based on their individual circumstances in light of the language of the certification and SBA guidance."
- PPLs in excess of \$2 million are subject to review for compliance with program requirements set forth in the PPP Interim Final Rules and in the Borrower Application Form.
- If determined that a borrower does not meet the 'good faith' certification requirements, the SBA will request repayment of the outstanding balance and revoke loan forgiveness.
 - If the loan is timely repaid by the borrower upon notification from SBA, the SBA will not pursue civil or criminal penalties.

While this updated guidance may relieve anxiety for those who received smaller loans, recipients of loans above \$2M should be prepared for SBA review and, potentially, repayment should the SBA conclude that the 'good faith' requirement is not met. It's important to reiterate that **ALL PPL RECIPIENTS** must still adhere to other requirements previously set forth; including, spending at least 75% of the proceeds on payroll costs and no more than 25% on other approved expenses, as well as specific guidelines regarding time period for spending and forgiveness.

Have questions or need help? We're here for you. Contact us at info@ppandco.com or (408) 287-7911 for assistance.

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