



COVID-19 UPDATE | MAY 13, 2020

SBA PAYCHECK PROTECTION PROGRAM UPDATES: SBA PROVIDES UPDATED GUIDANCE ON 'SAFE HARBOR' FOR BORROWER ELIGIBILITY

On Tuesday, May 13, 2020, the Small Business Administration (SBA) presented additional guidance around borrower eligibility for the Paycheck Protection Program (PPP). Under previous guidance, the SBA had stated that borrowers must certify in good faith that current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant. Additionally, the SBA stated that any loan over \$2 million would be reviewed to determine eligibility. No guidance was specified on the review of loans under \$2 million.

The latest guidance clarifies that borrowers with loans under \$2 million will not be reviewed:

"SBA, in consultation with the Department of the Treasury, has determined that the following safe harbor will apply to SBA's review of PPP loans with respect to this issue: Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith."

The latest guidance also clarifies that borrowers with loans greater than \$2 million who are found to be ineligible during the review process will be asked for repayment, and as long as repayment is made, no penalties, criminal or other charges will apply:

"If SBA determines in the course of its review that a borrower lacked an adequate basis for the required certification concerning the necessity of the loan request, SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness. If the borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request."

We expect to see additional guidance from the SBA in the coming weeks, and we will continue to analyze the guidance we receive and keep you abreast of any updates. If you have any questions, please don't hesitate to contact us at ppp@crrcpa.com, or visit our COVID-19 resource center at www.crrcpa.com/covid19 for additional information.

We're in this together.