

June 20, 2020

## MEMORANDUM

**TO:** Virginia SBDC Network  
**FROM:** MD Austin  
**SUBJECT:** **Changes to PPP Forgiveness Application**

Earlier this week the SBA published its revised forgiveness application form(s) and associated instructions based on the recently passed Flexibility Act (forms are available at [www.sba.gov](http://www.sba.gov)). However, unlike in the past, with these updated documents, the agency did not provide any additional guidance. It is hoped that they will do so as they receive feedback from borrowers and lenders.

### **Program Change: the EZ Application**

The most significant change is that the agency has issued a 2<sup>nd</sup>, less complex application dubbed the “EZ”. Borrowers are required to perform a “self-test” to determine if they are eligible to use this form, which includes:

- Is the borrower self-employed with no employees
- Did not reduce the salaries or wages of their employees by more than 25% and did not reduce the number or hours of their employees; or
- Experienced reductions in business activity because of health directives related to COVID-19 and did not reduce the salaries or wages of their employees by more than 25%

However, no additional guidance has been issued to lenders, which remain the arbiter of the eligibility of borrowers’ requests to use the EZ form. As a result, it is not known at this time how they will determine if a borrower is eligible. Also, a borrower that incorrectly self-certifies that they qualify for the EZ format, the SBA reserves the right to take a wide range of recourse options to recover their funds.

### **Documentation Requirements**

An additional change is that the voluminous documentation requirements issued in conjunction with the initial forgiveness application process remain, with one caveat: instead of providing

lenders with the information, borrowers are *simply* required to retain the supporting documentation for the same period as in the past, 6 years. This reduces the burden on lenders but still requires borrowers to maintain detailed records of how their PPP funds were disbursed. However, the agency has provided a modicum of additional insights into the PPP loan review process, which they continue to state that all applications are subject to. These include:

- Eligibility, based on, among other things, the “ineligible entities” and affiliation rules, as well as the borrower’s certification of need
- Loan amounts and use of proceeds
- Loan forgiveness amount

### **Timeline for Forgiveness**

One “quirk” that has emerged is the timeline for borrowers seeking forgiveness. These changes include:

- *Borrowers now have up to 10 months* after the end of their 8 or 24 week draw period to apply for forgiveness
- If they do not apply for forgiveness, repayment of the balance will commence at that time
- Once they apply for forgiveness, the lender continues to have up to 60 days to opine on whether their application passes muster, and the SBA has an additional 90 days to do the same. No payments of principal or interest are due until the SBA approves the amount of forgiveness

*One effect of these changes is that borrowers could be able to defer payments until 2021 or later.*

### **Conclusion:**

The net effect of these changes is that a significant number of borrowers may qualify to use the EZ form, which will (theoretically) significantly reduce the document compilation burden on borrowers. However, many of the documentation requirements remain and for clients that are not “accounting savvy” the mystery of the process remains (in spite of the statement from the Treasury Secretary that the EZ form should take 15 minutes to complete). Furthermore, it is not yet known how the financing community will incorporate these changes into their review processes. Therefore, it remains extremely important for borrowers to be in contact with their lenders to ensure they are complying with the guidance published by their lender to ensure maximum forgiveness of their PPP loan.