



SBA Procedural Notice

TO: All SBA Employees and Paycheck Protection Program Lenders

CONTROL NO.: 5000-20077

SUBJECT: Paycheck Protection Program Borrower Resubmissions of Loan Forgiveness Applications Using Form 3508S, Lender Notice Responsibilities to PPP Borrowers, and Offset of Remittances to Lenders for Lender Debts

EFFECTIVE: January 15, 2021

The purpose of this Notice is to inform Paycheck Protection Program (PPP) lenders of (1) the process for borrower resubmission of loan forgiveness applications using PPP Loan Forgiveness Application Form 3508S (SBA Form 3508S); (2) lender responsibilities to notify borrowers of (a) lender decisions to deny forgiveness in full, (b) SBA loan review decisions and borrower appeal rights to SBA's Office of Hearings and Appeals (OHA), and (c) SBA remittance of loan forgiveness payments; and (3) lender responsibilities in the event of offset of PPP remittances to lenders by the Treasury Offset Program (TOP).

I. Borrower Resubmission of a Loan Forgiveness Application using SBA Form 3508S

A borrower that is eligible to use SBA Form 3508S, but applied for loan forgiveness using PPP Loan Forgiveness Application Form 3508EZ or 3508, may resubmit its loan forgiveness application to its lender using SBA Form 3508S at any time until SBA notifies the lender of a final SBA loan review decision or remits to the lender the PPP loan forgiveness payment. If a lender receives a timely borrower resubmission of a loan forgiveness application using SBA Form 3508S, the lender should promptly request the withdrawal of any lender loan forgiveness decision by notifying SBA through the [SBA Paycheck Protection Platform](#).¹ Resubmissions after SBA notifies the lender of a final SBA loan review decision or remits to the lender the PPP loan forgiveness payment are not permitted.

After a borrower's resubmission of a complete loan forgiveness application, the lender must issue a decision to SBA on the new loan forgiveness application not later than 60 days after receipt of the complete loan forgiveness application. When the lender issues its forgiveness decision to SBA on the new loan forgiveness application, SBA will, subject to any SBA review

¹ <https://forgiveness.sba.gov/accounts/login/?next=/>.

of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its forgiveness decision to SBA.

II. Notification Responsibilities

Lenders must keep borrowers informed of certain actions during the PPP loan forgiveness process. Specifically, lenders must notify borrowers in writing within 5 business days of any of the following:

- A decision by the lender to deny forgiveness in full.
- A decision by SBA declining a request for review by a borrower of a lender's decision to deny forgiveness in full.
- A final SBA loan review decision, including an SBA loan review decision on forgiveness (whether approving or denying forgiveness in full or part).
- Remittance by SBA to the lender of the loan forgiveness amount, whether partial or full.

The information that lenders must include with their notifications to borrowers is described below. After sending the notification to the borrower, the lender must upload a copy of the notification correspondence to the [SBA Paycheck Protection Platform](#).

Lenders must take care to avoid providing erroneous information to borrowers regarding requests for SBA review of lender loan forgiveness decisions² or regarding borrower appeal rights, which are limited to certain specific circumstances, as described below.

A. Lender Decision to Deny Forgiveness in Full

If the lender issues to SBA a decision denying the borrower's loan forgiveness application in full, the lender must notify the borrower in writing of that decision. Such notice to the borrower must be provided within 5 business days and include the reasons that the lender concluded that the borrower is not entitled to loan forgiveness in any amount and inform the borrower that the borrower has 30 calendar days from receipt of the notification to seek, through the lender, SBA review of the lender's decision. Lenders are to upload a copy of the notification correspondence to the SBA Paycheck Protection Platform at the time the lender submits its full denial decision to SBA as directed in Paragraph II above.

Lenders that receive from borrowers requests for SBA review of full denial of forgiveness decisions must submit those requests to SBA through the SBA Paycheck Protection Platform within five business days of receipt. SBA will accept or decline in its sole discretion borrower requests for review of lender forgiveness full denial decisions. SBA will notify the lender if SBA decides to review the lender's decision or if SBA declines a borrower's request for review. If the borrower does not timely request SBA review or if SBA declines the request for review, the lender is responsible for notifying the borrower of the date on which the borrower's first PPP

² In accordance with PPP rules and guidance, a borrower may request SBA review only of a lender decision denying loan forgiveness in full.

loan payment is due and the amount of the payment.³ If SBA decides to review the lender's decision, SBA will issue an SBA final loan review decision to the lender upon completion of SBA's review. The lender must send a copy of that decision to the borrower as described in Paragraph II.B below.

B. SBA Loan Review Decision

When SBA selects a PPP loan for an SBA loan review, SBA will provide the lender with a Notification of Paycheck Protection Program Loan Review (Loan Review Notification) through the SBA Paycheck Protection Platform. The Loan Review Notification will require the lender to upload certain additional documents to the SBA Paycheck Protection Platform, in accordance with PPP rules and guidance. After completion of the loan review, SBA will issue a final SBA loan review decision (which is an official written decision by SBA) to the lender through the SBA Paycheck Protection Platform.

When SBA issues a final SBA loan review decision to a lender, the lender must provide a copy of SBA's decision to the borrower within 5 business days of the date of the decision. The SBA loan review decision will generally include the reasons for SBA's decision, and, if applicable, the amount approved in the lender's forgiveness decision and the forgiveness amount determined by SBA.

Any final SBA loan review decision that is appealable to OHA by the borrower will include a notice of the borrower's right to appeal the decision in accordance with SBA's interim final rule "Appeals of SBA Loan Review Decisions Under the Paycheck Protection Program."⁴ Pursuant to 13 CFR § 134.1201(b), a PPP borrower has the right to appeal to OHA only a final SBA loan review decision that finds a borrower:

1. was ineligible for a PPP loan;
2. was ineligible for the PPP loan amount received or used the PPP loan proceeds for unauthorized uses;
3. is ineligible for PPP loan forgiveness in the amount determined by the lender in its full approval or partial approval decision issued to SBA; and/or
4. is ineligible for PPP loan forgiveness in any amount when the lender has issued a full denial decision to SBA.

If no final SBA loan review decision was issued or if the final SBA loan review decision that was issued does not fall into one of the four categories above, the borrower does not have a right to appeal to OHA, and the lender must not provide the borrower with any erroneous information to the contrary. Additionally, a borrower cannot file an OHA appeal of any decision made by a lender concerning a PPP loan. 13 CFR § 134.1201(c).

³ If the lender issues a loan forgiveness decision other than denying forgiveness in full (i.e., if the lender's decision approves forgiveness in full or in part), the lender must notify the borrower after the lender receives SBA's final loan review decision or SBA's remittance of a loan forgiveness payment, as described below.

⁴ 85 FR 52883 (Aug. 27, 2020).

Any appeal to OHA must be made in accordance with the SBA Rules of Practice for Appeals of Certain SBA Loan Review Decisions Under the Paycheck Protection Program, located at 13 CFR §§ 134.1201-134.1217, including but not limited to the following:

- An appeal petition must be filed with OHA within 30 calendar days after the borrower's receipt of the final SBA loan review decision, or notification by the lender of the final SBA loan review decision, whichever is earlier. 13 CFR § 134.1204.
- The borrower's appeal petition must include the basis for OHA's jurisdiction, including evidence that the appeal is timely filed. 13 CFR § 134.1202(a)(1).
- The appeal must include a copy of the final SBA loan review decision that is being appealed. 13 CFR § 134.1202(a)(2).

An appeal to OHA (and a subsequent request for review by the Administrator of a disputed initial decision or reconsidered initial decision) are administrative remedies that must be exhausted before judicial review of a final SBA loan review decision may be sought in a federal district court. 13 CFR § 134.1216.

In accordance with SBA's PPP rules and guidance, borrowers may not appeal to OHA if, among other circumstances, the lender has issued a forgiveness decision to SBA in an amount that is less than the forgiveness amount requested by the borrower and SBA has remitted to the lender a forgiveness payment equal to the amount in the lender's forgiveness decision.

Note: OHA is currently reviewing 13 CFR § 134 Subpart L for potential redrafting. However, until there is a final rule update, these specific citations remain accurate and in effect.

C. Remittance of Any Portion of the Loan Forgiveness Amount by SBA to the Lender

If SBA has not provided a Loan Review Notification to the lender (i.e., the PPP loan has not been selected for an SBA loan review), SBA will issue a Notice of Paycheck Protection Program Forgiveness Payment (Payment Notice) to the lender when it remits a loan forgiveness payment. The Payment Notice will provide information about the forgiveness remittance and will be available to the lender through the SBA Paycheck Protection Platform.

If SBA issues a Loan Review Notification advising the lender that the loan has been selected for an SBA loan review, SBA will issue a final loan review decision upon completion of the review. The final loan review decision may be accompanied by a loan forgiveness payment to the lender, if appropriate. When SBA remits a loan forgiveness payment to the lender, the lender must notify the borrower in writing of the remittance. The lender must notify the borrower within 5 business days of receipt and provide the borrower with a copy of the Payment Notice generated by the [SBA Paycheck Protection Platform](#) or SBA's final loan review decision, as applicable.

The additional information that the lender is expected to include with its notification to the borrower depends on the circumstances:

- If the lender issued a partial approval decision to SBA (i.e., the amount of the lender's forgiveness decision was less than the forgiveness amount requested by the borrower) and SBA remits the full amount approved by the lender, then the lender's notification to the borrower must include the lender's decision, including the reasons the lender approved forgiveness in part but not in full. The lender's notification to the borrower

must not indicate that the borrower may appeal the lender's decision to OHA, because the borrower has no such appeal right to OHA in this circumstance.

- If SBA remits an amount different from the amount approved by the lender, the lender's notification to the borrower must include a copy of the final SBA loan review decision, as described in Paragraph II.B above, which will notify the borrower of its right to appeal the decision to OHA.
- If SBA remits a forgiveness payment for the full amount of the PPP loan, the lender must notify the borrower within five business days of the remittance by SBA. The lender also must mark the borrower's note for the PPP loan as "Paid in Full" and include the note in the notification to the borrower. Although the note is marked "Paid in Full," the forgiven amount is considered canceled indebtedness under Section 1106(c)(1) of the CARES Act.

In addition, in any case in which SBA remits a partial forgiveness payment for a portion of the PPP loan amount, the lender must notify the borrower within 5 business days of the remittance by SBA. The notification to the borrower should state that the remaining balance on the loan must be repaid by the borrower on or before the maturity date of the loan and specify the date on which the borrower's first payment will be due and the amount of that payment. The lender must report the loan's remaining balance on the next SBA Form 1502 Report the lender submits for the PPP loan.

III. TOP Offsets of Remittances to Lenders for Lender Debts

Forgiveness payment remittances made by SBA to lenders are subject to offset for delinquent debts registered with TOP that the lender owes to the United States, a State, the District of Columbia, Guam, the Virgin Islands, or Puerto Rico. If a lender has a debt that is active for collection in TOP, any forgiveness payments remitted by SBA to the lender will be offset until the lender's debt has been paid in full or otherwise resolved. If an SBA forgiveness payment is offset, in whole or in part, the lender must credit the borrower's PPP loan for the full amount of the funds that SBA approved for remittance to the lender (before offset) as set forth in the Payment Notice generated by the [SBA Paycheck Protection Platform](#) or SBA's final loan review decision. After the loan has been credited, the lender must report the remaining amount of the loan, if any, on the next SBA Form 1502 Report submitted by the lender for the PPP loan. Lenders that fail to timely and properly credit a borrower's PPP loan for the full amount of the funds that SBA approved for remittance to the lender (before offset) will be subject to SBA action, as appropriate. Lenders can obtain further information about their debts in the TOP through the Treasury Department's website at <https://fiscal.treasury.gov/top/contact.html>.

Questions concerning this Notice may be directed to the Lender Relations Specialist in the local SBA Field Office. Local SBA Field Offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

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