



Release Date: January 19, 2021

ACTION: Procedural Notice

References:

https://www.sba.gov/sites/default/files/2021-01/5000-20078_0.pdf?utm_campaign=NEWSBYTES-20210119&utm_medium=email&utm_source=Eloqua

SBA Procedural Notice: Paycheck Protection Program Excess Loan Amount Errors

Overview

This Notice informs lenders of the effects of “excess loan amount errors” made by the borrower or the lender in completing the PPP Borrower Application Form (SBA Form 2483, SBA Form 2483-SD, or lender’s equivalent), or the PPP Lender Application Form (SBA Form 2484 or SBA Form 2484-SD) for First Draw PPP Loans and Second Draw PPP Loans.

An excess loan amount error is a borrower or lender error made in good faith that caused a borrower to receive a PPP loan amount that exceeds their correct maximum amount under the CARES Act and Economic Aid Act. An excess loan amount error does not include a knowing misstatement. Knowing misstatements may result in additional action, such as charges for fraud.

Example 1: Borrower Error

Borrower mistakenly failed to subtract amounts paid to employees in excess of \$100,000 (annualized and prorated) from reported payroll costs, as required by the CARES Act and Economic Aid Act. Lender performed a good faith review, in a reasonable time, of the borrower’s calculations and supporting documents concerning average monthly payroll costs and did not identify an error in the borrower’s calculation of its payroll costs. As a result, the loan amount approved for the borrower exceeded the borrower’s maximum loan amount.

Example 2: Borrower Error

Borrower mistakenly included payments to an independent contractor in its calculation of payroll costs on its PPP Borrower Application Form. Lender performed a good-faith review, in a reasonable time, of the borrower’s calculations and supporting documents concerning average monthly payroll costs and did not identify the error. As a result, the loan amount approved for the borrower exceeded the borrower’s correct maximum loan amount.

Example 3: Lender Error

Borrower applied for and was eligible for a \$25,000 PPP loan. Lender inadvertently approved borrower for a \$35,000 loan due to a lender employee data input error. As a result, the borrower’s approved loan amount exceeded the borrower’s correct maximum loan amount.

Effect of Excess Loan Amount Error on Loan Forgiveness

Borrowers may not receive loan forgiveness for any amount that exceeds the correct maximum loan amount permitted by statute for that borrower. This is true whether the excess loan amount was caused by borrower or lender error.

When preparing or reviewing a loan forgiveness application, if a borrower or lender identifies an error that resulted in the borrower getting a larger PPP loan amount than they were eligible for, the lender must issue a decision to the SBA denying forgiveness for the amount that exceeded the borrower’s correct maximum loan amount.



If an excess loan amount error is discovered after the lender has already submitted the forgiveness decision to the SBA, the lender must promptly request the withdrawal of the lender loan forgiveness decision by notifying the SBA through the Paycheck Protection Platform. Lenders then must submit a new lender loan forgiveness decision for the correct amount through the Platform. Borrowers must repay the unforgiven portion of the PPP loan. If a lender discovers an excess loan amount error after the SBA has issued a final loan forgiveness decision and remitted payment, the lender must notify promptly the borrower and the SBA through the Platform.

Effect of Excess Loan Amount Error on SBA's Loan Guarantee

If an excess loan amount error is due solely to borrower error in completing the forgiveness application form, the borrower error does not invalidate SBA's guarantee of the PPP loan.

Example:

If a borrower received a PPP loan amount that exceeds its correct maximum loan amount because the borrower incorrectly calculated its payroll costs and a good-faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning average monthly payroll cost by the lender did not identify the error, the SBA guarantee would remain in effect. However, excessive occurrences or patterns of undetected borrower errors may indicate a lender did not perform a good-faith review of borrowers' calculations or supporting documents concerning average monthly payroll costs and could be grounds for further review of the lender by SBA, which could affect the guarantee.

If an excess loan amount error is due in whole or in part to the lender's failure to satisfy its obligations under the PPP rules, and the document collection and retention requirements per the lender application form (SBA Form 2484 and SBA Form 2484-SD), the SBA guarantee will not apply to the excess loan amount.

Example:

If the lender approved a borrower for a loan amount for which the borrower did not submit payroll documentation, it indicates that the lender did not satisfy its PPP lender obligations and the document collection and retention requirements described in the lender application form (SBA Form 2484 and SBA Form 2484-SD) with respect to the loan. Accordingly, the SBA guarantee would not apply to the portion of the loan amount that exceeds the borrower's correct maximum loan amount.

Effect of Excess Loan Amount Error on Borrower's Obligations

If a lender or the SBA determines the borrower was ineligible for any portion of its loan amount, forgiveness will be denied for the ineligible portion and the borrower must begin making payments on the remaining loan amount. Any unforgiven loan amounts remain obligations of the borrower, even if the borrower was ineligible to receive some or all of the loan.

Questions

Lenders may call the Lender Hotline at (833) 572-0502 for live assistance regarding platform access and support, policy questions and procedures, and Capital Access Financial system (CAFS) and SBA's Electronic Transmission (E-Tran) systems support. Lenders may direct loan specific inquiries to the SBA Paycheck Protection Platform inbox; general PPP forgiveness questions to PPPForgivenessRequests@sba.gov; requests for advanced technical support, API support and UAT error support to developer@ussbaforgiveness.com; and requests for assistance on SBA Paycheck Protection Platform navigation and platform user experience issues to help@ussbaforgiveness.com.



ACTION PLAN

- 1. Review this Procedural Notice in full.**
- 2. Determine from a procedural and operational standpoint how knowledge now of the impact to SBA guarantee will alter the bank's procedures for reviewing of loan forgiveness applications specifically.**
- 3. Prepare procedures and train relevant personnel of these requirements, particularly emphasizing review of loan forgiveness amounts and required documentation.**
- 4. Contact Compliance Alliance with any additional questions.**

