



Risk Alert: Round Two – Paycheck Protection Program Loan Application Assistance and Forgiveness Application Assistance Services

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On December 27, 2020, the Consolidated Appropriations Act, 2021 was signed into law and included additional funding for the Paycheck Protection Program (“PPP”), a U.S. Small Business Administration (“SBA”) loan program previously established and funded by the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act. With this additional funding, small businesses are expected to, once again, turn to their CPAs for assistance with applications for new PPP loans. Additionally, clients with a previous PPP loan, the covered period for which has expired, may ask CPAs for assistance with their applications for PPP loan forgiveness.

This alert outlines risk mitigation activities to be undertaken by CPA firms related to assisting clients with PPP loans, including loan application and forgiveness services. Note that additional guidance on this topic is being issued frequently, and the consultative advice herein may be subject to change.

Client Acceptance

Before accepting an engagement to assist a client in applying for a PPP loan or applying for loan forgiveness, CPAs should first consider whether the client is the right fit for the service and that they understand their responsibilities. The client should understand the relevant application process and that they are responsible for providing timely, complete and accurate information to the firm to facilitate the completion and submission of the pertinent application. Finally, clients should also understand that it is *their* responsibility to sign, certify and submit the relevant application and any required documentation to the SBA lender.

An engagement related providing assistance with a PPP loan or loan forgiveness application is a consulting service subject to the AICPA Statement on Standards for Consulting Services. A fundamental part of any consulting engagement is the client’s acceptance of their responsibilities and involvement in the engagement. A client that prefers to shift all responsibilities to the CPA firm may not be appropriate for this service.

Clients should also understand that it is their responsibility to comply with any applicable loan forgiveness and repayment provisions. Additionally, consider the role expected of the

CPA and how they will be compensated. The AICPA has clarified that lenders may pay a fee to CPAs and certain other professionals for completing and submitting loan applications for applicants as the lender's agent. Therefore, if the CPA expects to be compensated as an agent in accordance with the PPP, the CPA should contact the lender to discuss payment expectations before agreeing to render the services and enter into a written agreement with the lender regarding such. In addition, the CPA can receive a fee from the client for any advisory services provided related to the loan application process.

Finally, before agreeing to perform these services for an attest client, review the *AICPA Code of Professional Conduct §1.295 Nonattest Services*, AICPA ethical guidance on this topic, and any other ethical guidance issued by the AICPA related to loan services, and consider the impact on independence.

Engagement Letters

The AICPA Member Insurance Program has created sample engagement letters to be used when assisting clients with loan application or loan forgiveness application services. Key considerations include the following:

- Clearly articulating the scope of services to be delivered. The CPA's responsibilities should be limited to only those services outlined in the engagement letter.
- Including a statement that the firm will not audit or verify any information provided by the client, as well as a provision that the firm does not guarantee that the client will either qualify or be approved for a loan or loan forgiveness.
- Outlining the client's responsibilities, including the review, signature, and submission of the relevant application and required documentation to the client's SBA lender. The client also should acknowledge its responsibility for the accuracy and completeness of all certifications required by the SBA and/or the SBA lender.
- Clearly describing the engagement deliverable. The deliverable may be electronic or some other form of written communication. Use email or secure client portals when communicating electronically. Refrain from providing oral advice or consultations. If you must do so, send a follow-up email or other written communication documenting the discussion.
- Including a hold harmless provision in the event that the client's application submitted in good faith is not approved, as well as an agreement that the client will defend and indemnify the CPA firm for any third party claims made against the firm.

Engagement Delivery – Documentation

There are a number of decisions that will need to be made when assisting a client with both loan and loan forgiveness applications. Examples of such decisions include, but are not limited to whether or not to use the "alternative payroll covered period" when calculating payroll costs or the "simplified method" when calculating full-time equivalent employees.

Whenever there is a decision to be made, it is recommended that CPA firms articulate the decision alternatives to the client, the benefits and drawbacks of each alternative and request that the client choose how to proceed.

If specific guidance regarding calculations or qualifications related to the client's loan application or loan forgiveness has not been issued or is unclear, explain this and outline the client's options based upon information available as of that date. Advise the client of its responsibility to make the decision on how to treat a specific item based upon the facts, circumstances and guidance available at the time.

As always, document all discussions held with the client and decisions made by them.

Finally, deliverables should include a statement that they are based upon the guidance available as of the specific date of the deliverable, that additional guidance may be issued subsequent to the date of the deliverable that may affect the advice and guidance provided by the CPA, and that the CPA firm does not have a responsibility to update the deliverable if further guidance is provided.

Resources

- *SBA Loan Forgiveness Application and Instructions for Borrowers.*
- *SBA Loan Necessity Questionnaire (For-profit borrowers).*
- *SBA Loan Necessity Questionnaire (Non-profit borrowers).*
- Guidance issued by the SBA related to the Paycheck Protection Program, including their *FAQ for Lenders and Borrowers.*
- Guidance and resources provided by the AICPA on the *Coronavirus (COVID-19) Resource Center.*
- *SBA Paycheck Protection Program resources for CPAs* provided by the AICPA.
- Sample engagement letter: Paycheck Protection Program Loan Application Assistance engagement letter
- Sample engagement letter: Forgiveness engagement letter- Paycheck Protection Program Loan

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