

Oregon SBDC_Policy_PPP_Loan_Forgiveness_Advising

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Purpose: Define Oregon SBDC policy guidelines for PPP loan forgiveness advising

Situation:

The CARES Act Congress introduced the PPP as a new SBA guaranteed disaster assistance loan program designed to assist business owners to keep employees and owners on payroll while recovering from detrimental economic impacts of the 2020 COVID19 pandemic.

There were more than 58,000 PPP loans made to Oregon businesses worth \$6.8B as of 6.6.20. The SBA's eleven page PPP Loan Forgiveness Application published on 5.15.20 outlines a relatively complex process for calculating a borrower's request for PPP loan forgiveness which requires submission to the PPP issuing lender for review and determination. The application process is complex enough that some government officials have requested it be simplified. Complexity of the loan forgiveness is affirmed by the number of lenders, trade associations and private CPA firms conducting online trainings in effort to explain the PPP loan forgiveness application process.

On 6.5.20 the President signed into law the PPP Flexibility Act which eased rules around use of PPP funding extending the timeline for use of funds. As a result of the changes, SBA updated and reissued the PPP loan forgiveness application on 6.16.20.

The SBA's eleven page PPP Loan Forgiveness Application form 3508 was split into a five page revised form 3508 (6/16) and a separate instruction document. The 6.16.20 revision was accompanied by a new three page 3508EZ form aimed at simplifying the forgiveness process for some borrowers.

Even with changes intended to add flexibility to the program, there is likely to be demand for assistance with PPP loan forgiveness. SBDCs need clear guidance to understand our role and limitations regarding this process. The Network Office role is to protect centers, staff and host Institutions from the professional liability and inadvertent errors and omissions.

Precedence:

For years an Oregon SBDC "best practice" has been to refer specialized client advice on legal or tax related matters to licensed professionals. In addition, our role is to support client questions about bank programs and processes while not acting as banking experts. We do not complete applications on behalf of clients, but we advise clients on readiness.

In Oregon, licensed tax professionals (Certified Tax Preparers, Enrolled Agents, CPAs and Tax Attorneys) are sanctioned to provide advice and guidance on tax related matters. Many of these tax professionals protect themselves from professional liability by obtaining errors and omissions insurance policies.

Oregon SBDC's approach for informing and training staff on PPP guidelines has been developed in response to this program without prior protocol specific to this new program.

Process:

Oregon SBDC and the Capital Access Team has studied the complexity of the PPP loan forgiveness process and recognizes similarities between it and state or federal tax filing forms which incorporate elements of: (1) document workflow that spans multiple schedules and pages; (2) reporting eligible costs and elected expenses at the discretion of the filer; (3) calculating complex formulas based on different rules, circumstances and dependencies; (4) a process that yields different results informed by assumptions at the election of the filer; (5) the generation of a legal document for submittal to a designated authority (in this case an SBA certified lender) for determination of loan forgiveness.

Oregon SBDC consulted with Capital Access Team regional advisers and several center Directors to specifically gauge their comfort in assisting (or having SBDC advisers assist) PPP borrowers through the PPP loan forgiveness application process. These inquiries revealed a general unease and concern with liability around inadvertent errors and omissions which could occur by well-meaning SBDC advisors assisting clients with PPP loan forgiveness.

Based on this assessment and feedback, Oregon SBDC released this policy and recommendations for best practices directing Oregon SBDC business advisors on the topic of PPP loan forgiveness.

Recommendations:

- Focus on informing clients about the PPP loan Program guidelines and updates
- Focus on helping clients understand what information they need to gather to prepare for loan forgiveness
- Do not advise clients on how to complete loan forgiveness application documents
- Do not complete PPP loan forms on behalf of clients
- Defer detailed advising on PPP loan forgiveness application tax questions to licensed tax professionals
- Defer specific questions regarding forgiveness and eligibility to the originating lender
- Do not attempt to interpret federal loan guidelines when they are not clearly stated

What It Means to Defer this Advising to Lenders and Tax Pros:

Advisors should refrain from interpreting or extrapolating definitions or guidelines surrounding PPP loan forgiveness. Encourage clients to carefully read and review the SBA published forgiveness application form #3508 and #3508EZ form and their instructions to redirect complex questions to their banker and licensed tax professional.

Adherence to this policy is referenced as part of Oregon SBDC SBA subcontracts regarding policies and procedures. We ask that you comply with the following guidelines in order to prevent unwanted errors and omissions from occurring and to protect your advisers, center and your host from legal liability.