



## KTAP CLIENT ALERT

### Small Business Administration No Longer Requires Loan Necessity Questionnaire for Forgiveness of Loans Over \$2 Million

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On July 9, 2021, the United States Small Business Administration (SBA) officially eliminated the requirement that recipients of Paycheck Protection Program (PPP) loans of \$2 million or more submit a Loan Necessity Questionnaire as part of their application for loan forgiveness. The decision was given immediate effect and Loan Necessity Questionnaires previously requested by the SBA are no longer required to be submitted.

The SBA had used the Loan Necessity Questionnaire to evaluate a borrower's good faith economic uncertainty certification made at the time of application for a PPP loan. The questionnaire sought supplemental information about the borrower's business including after the loan was disbursed, such as current bank statements and information about current liquidity.

Many borrowers objected to such an after-the-fact reevaluation of their PPP loan necessity certification and were understandably concerned that they could lose their anticipated loan forgiveness due to having unexpectedly fared better than expected during the pandemic. In fact, the Association of General Contractors sued the SBA in December 2020 over the Loan Necessity Questionnaire, ultimately prompting the SBA's withdrawal of the requirement.

The SBA's decision to stop requiring the Loan Necessity Questionnaire is a very positive development for PPP borrowers with larger loans, since it streamlines the loan forgiveness application process and eliminates uncertainty about forgiveness requirements. Borrowers should note that they are still required to maintain all records related to their PPP loans for six years after the date when the loan is forgiven (or repaid in full) and must allow the SBA to review such records upon request.

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