SBA Makes No Changes to Large Borrower Questionnaire, Seeks Additional Comments

Paycheck Protection Program (PPP) lenders are continuing to distribute SBA Form 3509 to borrowers with loans of $2 million or more when they apply for loan forgiveness. Form 3509 focuses on the necessity certification those borrowers made when they applied for their PPP loans.

On Nov. 25 NADA urged the Small Business Administration and the Office of Management and Budget to streamline Form 3509 to reduce the information collection burden associated with several of its questions and information requests. Since then, SBA has issued a notice asking for additional comment on the form, but has yet to modify it aside from assigning a new expiration date of Dec. 31, 2023. Versions of Form 3509 with expiration dates of Oct. 31, 2020, Nov. 30, 2020, or Dec. 31, 2020, are no longer valid; if a PPP loan borrower receives an expired Form 3509 from its lender it should request one with the Dec. 31, 2023, expiration date in the top right corner.

A large PPP loan borrower that receives an unexpired Form 3509 from its lender must complete and return it within 10 days of receipt. A failure to accurately complete the form or to provide associated documentation may result in a determination by SBA that the borrower is ineligible for PPP loan forgiveness.

Note that PPP loan borrowers who apply for loan forgiveness by no later than 10 months after the end of their eight-week or 24-week covered period can avoid having to make payments on their loans. For example, a PPP borrower whose eight-week covered period ended in June 2020 and who applies for loan forgiveness by April 2021 can avoid having to make loan payments. NADA intends to push SBA to issue a revised Form 3509 by no later than April 2021.

Dealers with large PPP loans should review Form 3509 with their lenders and their legal and accounting advisers. See also #53 in SBA's FAQs for Lenders and Borrowers.

Additional information on the PPP and loan forgiveness, including NADA’s comprehensive CARES Act FAQs, is available from NADA’s Coronavirus Hub.

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