



Western Building Material Association

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NLBMDA Member Update May 13, 2020

SBA Clarifies PPP Loan Good-Faith Certifications

Over the past several weeks, NLBMDA has been lobbying the Small Business Administration (SBA) regarding outstanding issues with the Paycheck Protection Program (PPP) and questions about certifications and liquidity. We are pleased to report that in the last hour, the Small Business Administration (SBA) issued updated guidance that directly responds to NLBMDA's questions.

SBA has clarified that all borrowers who received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.

This updated guidance is a direct result of the grassroots advocacy of NLBMDA members and the hard work of our Federated Association Executives and NLBMDA thanks them for their efforts.

The full text of the guidance provided by SBA is below:

Question: How will SBA review borrowers' required good-faith certification concerning the necessity of their loan request?

Answer: When submitting a PPP application, all borrowers must certify in good faith that current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant." SBA, in consultation with the Department of the Treasury, has determined that the following safe harbor will apply to SBA's review of PPP loans with respect to this issue: Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.

SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment than borrowers that obtained larger loans. This safe harbor will also promote economic certainty as PPP borrowers with more limited resources endeavor to retain and rehire employees. In addition, given the large volume of PPP loans, this approach will enable SBA to conserve its finite audit resources and focus its reviews on larger loans, where the compliance effort may yield higher returns.

Importantly, borrowers with loans greater than \$2 million that do not satisfy this safe harbor may still have an adequate basis for making the required good-faith certification, based on their individual circumstances in light of the language of the certification and SBA guidance. SBA has previously stated that all PPP loans in excess of \$2 million, and other PPP loans as appropriate, will be subject to review by SBA for compliance with program requirements set forth in the PPP Interim Final Rules and in the Borrower Application Form.

If SBA determines in the course of its review that a borrower lacked an adequate basis for the required certification concerning the necessity of the loan request, SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness. If the borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request. SBA's determination concerning the certification regarding the necessity of the loan request will not affect SBA's loan guarantee.

NLBMDA thanks all members for their grassroots efforts and continue to aggressively advocate on behalf of the in entire lumber and building material dealers industry.

For questions, please contact NLBMDA Director of Government Affairs, Kevin McKenney at kevin@dealer.org.

NLBMDA Sends Phase 4 Priorities to Congress and White House

The National Lumber and Building Material Dealers Association (NLBMDA) recently sent a list of priorities important to the lumber and building material (LBM) industry to the White House and Congress as they continue to negotiate a "Phase 4" relief package.

"As the federal government considers the next of phase of COVID-19 relief legislation, NLBMDA believes it is critical for Congress and the Administration to continue to provide robust support to small businesses harmed by the pandemic," said Jonathan Paine, NLBMDA President & CEO. "NLBMDA's recommendations for Phase 4 relief focus on short-term solutions to help lumber and building material dealers and residential construction as well as longer-term solutions that will continue the recovery in the future."

The letter details several important priorities, including but not limited to:

- Strengthening the PPP Program, including additional relief and guidance on liquidity concerns;
- Allowing dealers to receive the maximum \$10,000 grant for Economic Injury Disaster Loans (EIDL);
- Ensure the "Main Street Lending Program" is accessible and effective for dealers;
- Strengthen the Low-Income Housing Tax Credit (LIHTC);
- Increasing dealer and construction access to PPE; and
- Making sure regulatory agencies provide assistance to businesses acting in good faith, rather than a sole focus on enforcement.

NLBMDA will continue its lobbying efforts, including a robust grassroots effort, over the coming weeks so that dealers are heard as negotiations and drafts begin to take shape.