

Questions for Paycheck Protection Loan Recipients: Part II

by *NLI Staff*

- How can an organization prepare for a possible loan review by the Small Business Administration in partnership with the Department of Treasury?

Public Relations and Communication

What public relations efforts should a PPP loan recipient consider?

An organization's receipt of funds through the PPP may not remain private, and some media sources may [unfavorably characterize](#) the organization's receipt of funds.¹ Additionally, many grant applications require prospective applicants to disclose whether they receive government funding, which may include loan forgiveness under the PPP.

Accordingly, the organization's leadership should develop a public relations plan in anticipation of the receipt of PPP funds becoming public.

An effective communication plan includes the following elements:

1. **Who:** The organization's leadership should identify key stakeholders who should receive communications about the loans. These stakeholders may include employees, donors, volunteers, program participants and their families, the media, and the public.

Additionally, leaders should designate a point of contact to handle media and other public inquiries about the loans. If more than one individual will be communicating with media, the team should meet to discuss the organization's message and ensure consistency in all statements and responses.

2. **What:** The organization's leadership should:
 - a. Develop a public statement regarding its receipt of funds and any details the organization wishes to share with the public.
 - b. Build a list of expected media and stakeholder questions and prepare answers.
 - c. Stay up to date on news coverage of this topic to determine when and the organization should issue statements.

¹ Certain information about the loan can be made public under the Freedom of Information Act, and, additionally, organizations may be required to disclose information about the organization's receipt of a PPP loan on the IRS Form 990 Information Return, which is publicly available.

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3. **When:** A best practice in communications is to take initiative when communicating. Organizations should consider proactively issuing a message regarding PPP loans before media outlets begin reporting on the subject.
4. **Where:** The organization can consider posting a brief statement on its website, in an e-newsletter, or in other regular communications with its stakeholders.
5. **Why:** The organization should use any attention it receives as a positive opportunity to share and advocate for its mission.

Applying for Forgiveness

How should a PPP recipient prepare to submit the loan forgiveness application?

The SBA recently released the [loan forgiveness application form and related instructions](#).² The organization's leaders should review the application as soon as possible, to anticipate the information that will be needed.

In addition to preparing the substance of the loan forgiveness application, the organization's leaders should also address key logistics matters related to preparing the application.

For example, the organization should:

1. **Identify.** Decide which individuals will review the loan forgiveness application prior to its submission.
2. **Notice.** Provide notice to these individuals so they can prepare to be available at the appropriate time.

For example, if the organization plans to submit the application at the end of July and wishes the Chief Financial Officer, the Executive Director, and a third-party accountant to review the forgiveness application, the organization may wish to schedule the review meeting in advance to avoid a last minute "fire-drill" when the time for submission arises.

3. **Schedule.** Identify the date or approximate deadlines by which the organization should submit the forgiveness application, as well as the target dates for preparing the application and sending it to key leaders or professionals for review.

Preparing for a Review

"In FAQ #31, SBA reminded all borrowers of an important certification required to obtain a PPP loan. To further ensure PPP loans are limited to eligible borrowers in need, the SBA has decided, in consultation with the Department of the Treasury, that it will review all loans in excess of \$2 million, in addition to

² Please be aware the loan forgiveness application may be updated to reflect legislative and administrative developments.

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other loans as appropriate, following the lender's submission of the borrower's loan forgiveness application. Additional guidance implementing this procedure will be forthcoming."

- Small Business Association, [Paycheck Protection Program Frequently Asked Questions](#), #39

"For a PPP loan of any size, SBA may undertake a review at any time in SBA's discretion."

- [SBA Interim Final Rule](#), *Business Loan Program Temporary Changes; Paycheck Protection Program – SBA Loan Review Procedures and Related Borrower and Lender Responsibilities*

What are steps an organization can take to prepare for an SBA loan review?

The SBA has stated that it will review all loans of more than \$2 million and will concentrate on these larger loans. However, the SBA further stated that all loans can be reviewed at the discretion of the SBA. While the SBA may be unlikely to review smaller loans to religious or other tax-exempt organizations, nonprofit executives should still be aware of the possibility of a review.

Leaders should prepare the organization to respond to an inquiry professionally, efficiently, and without undue stress. How much or little preparation for a potential review is appropriate will vary depending on the organization.

A rule of thumb is to prepare for a review the way an organization would prepare for an IRS audit – maintain reports, summaries of information submitted on reports, and source documents for all information used in the loan and loan forgiveness application statements and calculations.

1. Communication

The organization should create a plan for how staff will respond if the SBA does perform a review.

Following the guidelines in the media communication plan outlined above, the government response plan should:

- Designate.** Assign a point of contact for inquiries regarding receipt of the loan funds;
- Identify.** List individuals who should be involved in calls with government representatives. For example, the organization may wish to have its executive director, chief financial officer, general counsel (or outside counsel), and accountant present for any calls;
- Notify.** Inform the board of directors that a review is possible; and
- Engage.** Establish what engagement the board will have during the review and what communication method would be used for any necessary meetings.

2. Preparation for Document Requests

The organization should also develop a workflow for responding to document requests from the agency investigators.

For example, the organization's corporate secretary may be responsible for intaking paperwork requests, pulling each required document, and forwarding a draft response file to the Executive Director. The Executive Director, in turn, will review and submit the file to the SBA representative.

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3. Identifying Counsel

The organization should identify potential professionals to whom the organization can turn for legal and accounting expertise if necessary.

If the organization does not regularly work with an attorney and accountant, the organization may wish to have a preliminary call with potential counsel to make sure the professionals have the time and experience to assist if needed.

If the organization does have an existing relationship with an accountant and attorney, the executives may wish to have brief, preliminary conversations with each to discuss an appropriate response strategy for working together in the event of an SBA review.

4. Internal Governance

The organization should use this opportunity to strengthen its operations and evaluate its internal governance processes. The IRS has published a [helpful assessment tool](#) for 501(c)(3) organizations, which can be used to identify areas for improvement.

In particular, the organization should review its [corporate records](#) to ensure the organization has key copies of corporate documents and policies available and can provide them upon request.

The organization may also wish to confirm its good standing with state and federal agencies such as the secretary of state and the IRS. An organization can check its status with the IRS by using the [exempt organization search tool](#) on the IRS website.

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