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Names and limited details about Paycheck Protection Program (PPP) Loans will now be released for businesses receiving \$150,000 or more

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On June 19, 2020, the Small Business Administration (SBA) and the United States Department of the Treasury announced that the SBA *will* disclose the names of borrowers and certain other details about many loans under the Paycheck Protection Program (PPP). The scope is modest: each borrower that has been approved for a loan over \$150,000 will be identified, along with limited information about the loan itself.¹

This announcement, which makes the disclosure of information about loans under the PPP program somewhat more consistent with the SBA's general practices prior to the CARES Act, reverses a previously announced intent on the part of the government *not* to disclose any such information for PPP loans. In addition to the name of the borrower, the following details will now be released for each PPP loan:

- Borrower's address
- Borrower's NAICS (North American Industry Classification System) code
- Borrower's zip code
- Borrower's business type
- Certain demographic data
- Certain not-for-profit information (if the applicant is a not-for-profit entity)
- The jobs supported by the loan

The exact amount of the loan will not, however, be released. Instead, the SBA will identify only the dollar range of the loan, as follows:

- \$150,000–\$350,000
- \$350,000–\$1 million

¹ See generally ["SBA and Treasury Announce Enhanced Transparency Regarding the Paycheck Protection Program,"](#) (last visited June 22, 2020).

- \$1–\$2 million
- \$2–\$5 million
- \$5–\$10 million

For loans of less than \$150,000, which the government indicated constitute approximately 25% off all loans approved, “totals will be released, aggregated by zip code, by industry, by business type, and by various demographic categories.” The \$150,000 threshold was apparently selected on the theory that it was needed to keep personal details about very small businesses and independent contractors private. Presumably, for example, the SBA would take the position that an enterprise seeking or receiving less than \$150,000 in PPP funding would likely be so small that the disclosure of such information about it would be commercial or financial information obtained from a person which would cause substantial competitive harm to the submitter if disclosed.²

Of course, the size of a loan approved does not necessarily indicate the size of the business requesting it, so there are likely to be challenges (through FOIA requests and otherwise) to the government’s position, not only for this reason, but because the position does not even go as far as the PPP loan application form itself. The form provides that “[i]nformation about approved loans that will be automatically released [in response to a FOIA request] includes . . . information such as the names of the borrowers (and their officers, directors, stockholders or partners), the collateral pledged to secure the loan, the amount of the loan, its purpose in general terms and the maturity.”³ The SBA’s own guidance on FOIA responses is also broader than the current public disclosure promised for PPP loans.⁴

In the meantime, SBA Administrator Jovita Carranza describes her agency’s public disclosure approach as one of balancing the “steps we are now taking to provide needed public information while protecting entrepreneurs’ personally identifiable information, such as a home address associated with their business loan.” Treasury Secretary Steven Mnuchin similarly asserted that “[w]e are striking the appropriate balance of providing public transparency, while protecting the payroll and personal income information of small businesses, sole proprietors, and independent contractors.”

It is not yet clear what format the SBA will use in providing the promised PPP loan details. To date, the agency has only released certain information about the banks involved in the program and limited aggregate information about borrowers and borrower locations. (See the most recent release [here](#).) The SBA also did not say whether applicants for PPP loans whose applications were approved, but which returned or never accepted any funds, would be included in the information to be released.

We are continuously monitoring developments with respect to the PPP. We expect to issue updates as we receive additional guidance about the program, including any additional material guidance on the release of borrower data.

² See 5 U.S.C. § 552(b)(4) (2020) (Freedom of Information Act (“FOIA”) Exemption 4).

³ See [Paycheck Protection Program Borrower Application Form](#) (last visited June 22, 2020), at 4.

⁴ See [FOIA information page](#) (last visited June 22, 2020).

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