



November 25, 2020

Mr. Curtis Rich  
Agency Clearance Officer  
Small Business Administration  
409 3rd Street, SW, 5th Floor  
Washington, DC 20416

SBA Desk Officer  
Office of Information and Regulatory Analysis  
Office of Management and Budget  
New Executive Office Building  
Washington, DC 20503

Dear Mr. Rich and SBA Desk Officer,

We are writing on behalf of the more than 1,400 Federally Qualified Health Centers (FQHCs) across the country. FQHCs are community-based, non-profit organizations that provide affordable, accessible health care for all individuals, regardless of their ability to pay. FQHC patients have been disproportionately impacted COVID-19, as 91% of them are low-income, 23% are uninsured, and 68% are racial and ethnic minorities, many of whom suffer from multiple chronic health conditions. Since the start of the pandemic in March, FQHCs have been on the frontlines of prevention, testing, and treatment, serving more than 30 million patients at over 12,000 care delivery sites nationally.

For many FQHCs, the Paycheck Protection Program (PPP) was a life-saver, enabling them to keep their doors open and their staff employed at a time when revenues were plummeting and the future was highly uncertain. However, in recent weeks many FQHCs have reached out to express serious concerns and frustration with the “Loan Necessity Questionnaires” (SBA Form 3510, for non-profit organizations) for borrowers who received more than \$2 million in funds. We outline these concerns below.

**Form 3510 focuses on information that borrowers could not have known at the time they applied for PPP loans.** This concern is addressed at length in the [comments](#) from the American Institute of Certified Public Accountants (AICPA), which NACHC fully support. As the AICPA emphasizes, “PPP borrowers were required to make a ‘good faith certification’ of need for the loan *at the time of the loan application.*” However, Form 3510 focuses heavily on information and data that borrowers could not possibly have known at the time they applied -- such as total revenues in the second quarter of 2020 (Q2 2020), and how much the borrower ultimately received under the CARES Act. Thus, while Congress intended for borrowers to determine their need for a PPP loan based on “good faith... at the time of the loan application”, these questions suggest that that SBA and banks will base forgiveness decisions on information that only became only available well after the time of application.

**Form 3510 does not provide borrowers with adequate opportunity to explain the context behind their decision that a PPP loan was necessary at the time they applied for it.** As stated above, borrowers were required to make a ‘good faith certification’ of need for the loan *at the time of the loan application.*” Thus, Form 3510 should provide borrowers with adequate opportunity to explain the context behind their decision that a PPP loan was necessary when they applied for it. However, Form 5310 offers few opportunities to provide such context, and these opportunities are limited to 1000 characters and generally restricted to responses to specific questions. As a result, there is little to no opportunity for borrowers to provide context for why they determined that applying for a PPP loan was necessary.

For this reason, NACHC strongly supports the central request contained in AICPA’s letter:

“rather than asking for data surrounding the borrower’s operations after the date of the loan application, the agencies should instead ask the borrower to provide a narrative statement with documentation the borrower believes appropriate to support the basis for its good faith certification that the uncertainty in economic conditions made the PPP loan necessary to support the ongoing operations of the business”

**The information requested on Form 3510 goes far beyond the PPP application, raising questions about why information is being requested.** The new form requests information that does not seem directly relevant to evaluating borrowers’ good faith certifications. For example, it asks about total funding received under the CARES Act, and total compensation for employees who are paid more than \$250,000 annually. Given that CARES Act funding is to be spent throughout the duration of the on-going pandemic (and was generally not awarded until after PPP applications were submitted), and that PPP funding is limited to an annualized rate of \$100,000 per employee, we are unclear as to why this information is being requested, and how it will be used.

**The information being requested can easily be taken out of context, and there is little or no opportunity to provide adequate context to prevent such misinterpretations.** For example, FQHCs received a range of COVID relief funds during Q2 2020 that are intended for use over the course of the entire pandemic. As a result, total funding received during Q2 2020 may look artificially high relative to Q2 2019, causing comparisons between the two quarters to significantly understate FQHCs’ real need for COVID-related funding. Again, this question allows only 1,000 characters for providing “context”, which is insufficient for explaining the intricacies of important factors such as the awards dates and budget periods for other funding sources.

**For many borrower, ten days is not enough time to complete the form.** This is particularly true for frontline health care providers like FQHCs, who are consumed with battling the pandemic.

**Inadequate time was provided for public review and comment.** Lastly, given that Form 3510 is being made available by banks to borrowers, and was not made shared broadly by the SBA, NACHC only began learning about these issues last week, as FQHCs began receiving the forms

from their banks. The comment period of 30 days from initial publication did not provide enough time for a thorough assessment of the impact of the form on Federally Qualified Health Centers.

Thank you for consideration of these comments, and if you have questions, please contact Jeremy McClain at [jmcclain@nachc.org](mailto:jmcclain@nachc.org).

Sincerely,

A handwritten signature in cursive script that reads "Colleen P. Meiman". The signature is written in black ink and is positioned above the typed name and title.

Colleen P. Meiman  
Senior Policy Advisor