

Paycheck Protection Program Second Draw Loans

A guide for small businesses

Section 11 of H.R. 133 creates a second loan from the Paycheck Protection Program (PPP) called a “PPP second draw” loan for smaller and harder-hit businesses, with a maximum amount of \$2 million. Below is a guide to understanding the provisions in the act related to the PPP second draw program.

Eligibility

In order to receive a PPP loan under this section, eligible entities must:

- Employ not more than 300 employees;
- Have used or will use the full amount of their first PPP; and
- Demonstrate at least a 25% reduction in gross receipts in the first, second, or third quarter of 2020 relative to the same 2019 quarter (for businesses that were not in operation in Q1, Q2, Q3, and Q4 of 2019 there will be another applicable timeline). Applications submitted on or after January 1, 2021 are eligible to utilize the gross receipts from the fourth quarter of 2020.

Eligible entities must be businesses, certain non-profit organizations, housing cooperatives, veterans' organizations, tribal businesses, self-employed individuals, sole proprietors, independent contractors, and small agricultural co-operatives.

Loan Terms

In general, borrowers may receive a loan amount of up to 2.5X the average monthly payroll costs in the one year prior to the loan or the calendar year. No loan can be greater than \$2 million.

- Seasonal employers may calculate their maximum loan amount based on a 12-week period beginning February 15, 2019 through February 15, 2020.
- New entities may receive loans of up to 2.5X of average monthly payroll costs.
- Entities in industries assigned to NAICS code 72 (Accommodation and Food Services) may receive loans of up to 3.5X average monthly payroll costs.

- Businesses with multiple locations that are eligible entities under the initial PPP requirements may employ not more than 300 employees per physical location.
- Waivers of affiliation rules that applied during initial PPP loans apply to a second loan.
- An eligible entity may only receive one PPP second draw loan.
- Fees are waived for both borrowers and lenders to encourage participation.
- For loans of not more than \$150,000, the entity may submit a certification attesting that the entity meets the revenue loss requirements on or before the date the entity submits their loan forgiveness application and non-profit and veterans' organizations may utilize gross receipts to calculate their revenue loss standard.

Loan Forgiveness

Borrowers of a PPP second draw loan would be eligible for loan forgiveness equal to the sum of their payroll costs, as well as covered mortgage, rent, and utility payments, covered operations expenditures, covered property damage costs, covered supplier costs, and covered worker protection expenditures incurred during the covered period. The 60/40 cost allocation between payroll and non-payroll costs in order to receive full forgiveness will continue to apply.

Additional Eligible Expenses

The following expenses are now eligible and forgivable uses for PPP funds:

- Covered operations expenditures: Software, cloud computing, and other human resources and accounting needs
- Covered property damage costs: Property damage due to public disturbances that occurred during 2020 that are not covered by insurance
- Covered supplier costs: Contracts, purchase orders, or orders for goods in effect prior to taking out the loan that are essential to the recipient's operations
- Covered worker protection expenditure: Personal protective equipment and adaptive investments to help a loan recipient comply with federal health and safety guidelines or any equivalent State and Local guidance related to COVID-19

Simplified Application

The act creates a simplified application process for loans under \$150,000 such that:

- A borrower shall receive forgiveness if a borrower signs and submits to the lender a certification that is not more than one page in length, includes a description of the number of employees the borrower was able to retain because of the covered loan, the estimated total amount of the loan spent on payroll costs, and the total loan amount. The borrower must also attest that borrower accurately provided the required certification and complied with Paycheck Protection Program loan requirements. SBA must establish this form within 24 days of enactment and may not require additional materials unless necessary to substantiate revenue loss requirements or satisfy relevant statutory or regulatory requirements. Additionally, borrowers are required to retain relevant records related to employment for four years and other records for three years. The Administrator may review and audit these loans to ensure against fraud.
- At the discretion of the borrower, the borrowers may complete and submit demographic information for all PPP loans.

- The SBA must submit to the Senate and House Small Business Committees a report 45 days after enactment detailing their review and forgiveness audit plan to mitigate risk of fraud and provide monthly reviews and audit updates thereafter.
- Applies to loans made before, on, or after the date of enactment, including the forgiveness of the loan.

Timeline and Appropriations

The act extends of time of the program to March 31, 2021 and allocates \$284.45 billion for the PPP, including the below set-asides. After 25 days, the SBA Administrator may adjust the set-asides as necessary.

Lenders:

- \$15 billion for PPP loans (initial and second draw) issued by community financial institutions, including community development financial institutions (CDFIs) and minority depository intuitions (MDIs);
- \$15 billion for PPP loans (initial and second draw) issued by certain small depository institutions.

Borrowers:

- \$35 billion for first-time borrowers, \$15 billion of which for smaller, first-time borrowers with 10 or fewer employees, or loans less than \$250,000 in low-income areas;
- \$25 billion for second draw PPP loans for smaller borrowers with 10 or fewer employees, or loans less than \$250,000 in low-income areas.

Other:

- \$25 million for the Minority Business Development Centers program under the Minority Business Development Agency (MBDA);
- \$50 million for PPP auditing and fraud mitigation purposes;
- \$20 billion for the Targeted EIDL Advance program, of which \$20 million for the Inspector General;
- \$57 million for the Microloan program as described in section 29;
- \$1.9 billion to carry out sections 26, 27, and 28;
- \$3.5 billion for the Debt Relief program as described in section 25;
- \$15 billion for grants for live venues as described in section 24.

In the coming weeks, the SBA Administrator will release additional information about the application, program, and eligibility. GCP will work to update this guide to ensure you have the information needed. Check back here for updates.