

Second Draw PPP Loans ("PPP Round 2")

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www.treasury.gov



Two Points Before Diving into PPP Round 2

Expenses paid with PPP funds are now deductible

The [Consolidated Appropriations Act, 2021](#) (CAA 2021), provides that deductions are allowed for otherwise deductible expenses paid with the proceeds of a Paycheck Protection Program (PPP) loan that is forgiven and that the tax basis and other attributes of the borrower's assets will not be reduced as a result of the loan forgiveness. CAA 2021 passed both houses of Congress on Dec. 21, and President Donald Trump signed the bill into law on Dec. 27.

EIDL advances no longer reduce your PPP forgiveness amount

The Economic Aid Act repealed the CARES Act provision requiring SBA to deduct EIDL Advance Amounts received by borrowers from the forgiveness payment amounts remitted by SBA to the lender. The EIDL Advance Amount received by the borrower will not reduce the amount of forgiveness to which the borrower is entitled and will not be deducted from the forgiveness payment amount that SBA remits to the lender. Any EIDL Advance Amounts previously deducted from a borrower's forgiveness amount will be remitted to the lender, together with interest to the remittance date. Information pending regarding requirement to amend previously submitted forgiveness applications.



Top Line Overview of Second Draw PPP

The Paycheck Protection Program (PPP) now allows certain eligible borrowers that previously received a PPP loan to apply for a Second Draw PPP Loan with the same general loan terms as their First Draw PPP Loan.

Second Draw PPP Loans can be used to help fund payroll costs, including benefits. Funds can also be used to pay for mortgage interest, rent, utilities, worker protection costs related to COVID-19, uninsured property damage costs caused by looting or vandalism during 2020, and certain supplier costs and expenses for operations.

Full Forgiveness Terms

Second Draw PPP Loans made to eligible borrowers qualify for full loan forgiveness if during the 8- to 24-week covered period following loan disbursement:

- Employee and compensation levels are maintained in the same manner as required for the First Draw PPP loan;
- The loan proceeds are spent on payroll costs and other eligible expenses; and
- At least 60 percent of the proceeds are spent on payroll costs.

Targeted Eligibility

A borrower is generally eligible for a Second Draw PPP Loan if the borrower:

- Previously received a First Draw PPP Loan and will or has used the full amount only for authorized uses (were in business as of 2/15/2020);
- Has no more than 300 employees (including all domestic & foreign affiliates)
 - Accommodation and Food Services businesses (NAICS Code beginning with 72) that has more than one physical location and employs less than 300 per physical location
- Can demonstrate at least a 25% reduction in **gross receipts** between comparable quarters in 2019 and 2020.

Top Line Overview of Second Draw PPP

Maximum Loan Amount & Increased Assistance for Accommodation and Food Service Businesses

- For most borrowers, the maximum loan amount of a Second Draw PPP Loan is **2.5x average monthly 2019 or 2020 payroll costs up to \$2 million.**
- For borrowers in the **Accommodation and Food Services sector** (with an NAICS code beginning with 72), the maximum loan amount for a Second Draw PPP Loan is **3.5x average monthly 2019 or 2020 payroll costs up to \$2 million.**
- **Loans Terms are consistent with First Draw PPP Loans**
 - PPP loans have an interest rate of 1%.
 - Loans have a maturity of five years.
 - Loan payments will be deferred for borrowers who apply for loan forgiveness until SBA remits the borrower's loan forgiveness amount to the lender. If a borrower does not apply for loan forgiveness, payments are deferred 10 months after the end of the covered period for the borrower's loan forgiveness (either 8 weeks or 24 weeks).
 - No collateral or personal guarantees are required.
 - Neither the government nor lenders will charge small businesses any fees.
- Businesses that are part of a single corporate group shall in no event receive more than \$4,000,000 of Second Draw PPP Loans in the aggregate and should not exceed \$10M when combining PPP round 1 loans.

Ensuring Access for All

SBA continues to call upon its lending partners, including Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs), to redouble their efforts to assist eligible borrowers in underserved and disadvantaged communities.

At least \$25 billion is being set aside for Second Draw PPP Loans to eligible borrowers with a **maximum of 10 employees** or **for loans of \$250,000 or less** to eligible borrowers in low- or moderate-income neighborhoods.

To promote access for smaller lenders and their customers, SBA will initially only accept Second Draw PPP Loan applications from community financial institutions starting on January 13, 2021. The PPP will open to all participating lenders for Second Draw PPP Loans shortly thereafter. TBD.

SBA Lender Match

Request Id 1413006

Lender Match

What is the name of your business?

Please enter the business name.

What is the business ZIP code?

Please enter a valid 5-digit US zip code.

What is your business website?

Describe what your business does (Max 2000 Characters)

My neighbourhood pizza restaurant specializes in serving fast cuisine made with high-quality, local ingredients...

BACK

CONTINUE

Lender Match is a free online tool that connects small businesses with SBA-approved CDFIs and small lenders. Do not use if looking for Disaster loans.

<https://www.sba.gov/funding-programs/loans/lender-match>

Who is not eligible for a Second Draw PPP Loan

Who is not eligible for a second draw PPP loan

You are ineligible for a PPP loan if, for example:

- i. You are engaged in any activity that is illegal under Federal, state, or local law;
- ii. You are a household employer (individuals who employ household employees such as nannies or housekeepers);
- iii. An owner of 20 percent or more of the equity of the applicant is presently incarcerated or, for any felony, presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of, pleaded guilty or nolo contendere to, or commenced any form of parole or probation (including probation before judgment) for, a felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance within the last five years or any other felony within the last year
- iv. You, or any business owned or controlled by you or any of your owners, has ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted within the last seven years and caused a loss to the government;
- v. Your business or organization was not in operation on February 15, 2020;
- vi. You or your business received or will receive a grant under the Shuttered Venue Operator Grant program under section 324 of the Economic Aid Act;
- vii. The President, the Vice President, the head of an Executive Department, or a Member of Congress, or the spouse of such person as determined under applicable common law, directly or indirectly holds a controlling interest in your business;
- viii. Your business is an issuer, the securities of which are listed on an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f)32 (SBA will not consider whether a news organization that is eligible under the conditions described in subsection 1.f. and 1.g.vi. is affiliated with an entity, which includes any entity that owns or controls such news organization, that is an issuer33);
- ix. Your business has permanently closed.
- x. Hedge Funds or Private Equity Firms or any concern primarily engaged in investment or speculation
- xi. If the applicant or the owner of the applicant is the debtor in a bankruptcy proceeding, either at the time it submits the application or at any time before the loan is disbursed, the applicant is ineligible to receive a PPP loan

Who is not eligible for a Second Draw PPP Loan

The Economic Aid Act also prohibits several additional categories of borrowers from receiving a Second Draw PPP Loan under section 7(a)(37) of the Small Business Act. These categories of prohibited borrowers include:

- a business concern or entity primarily engaged in political activities or lobbying activities, including any entity that is organized for research or for engaging in advocacy in areas such as public policy or political strategy or that describes itself as a think tank in any public documents;
- certain entities organized under the laws of the People's Republic of China or the Special Administrative Region of Hong Kong, or with other specified ties to the People's Republic of China or the Special Administrative Region of Hong Kong;
- any person required to submit a registration statement under section 2 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 612);
- a person or entity that receives a grant for shuttered venue operators under section 324 of the Economic Aid Act
- entities in which the President, the Vice President, the head of an Executive department, or a Member of Congress, or the spouse of such person owns, controls, or holds at least 20 percent of any class of equity; or
- a publicly traded company, defined as an issuer, the securities of which are listed on an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f).

*Important to read/consider the Small Business Act Rules and Exclusions for 7(a) loans *

Revenue Reduction Requirement

The Economic Aid Act provides that, to be eligible for a Second Draw PPP Loan, the borrower must have experienced a revenue reduction of 25% or greater in 2020 relative to 2019.

- A borrower must calculate this revenue reduction by comparing the borrower's quarterly gross receipts for one quarter in 2020 with the borrower's gross receipts for the corresponding quarter of 2019
 - For example, a borrower with gross receipts of \$50,000 in the second quarter of 2019 and gross receipts of \$30,000 in the second quarter of 2020 has experienced a revenue reduction of 40 percent between the quarters, and is therefore eligible for a Second Draw PPP loan (assuming all other eligibility criteria are met).
- Subsection (c) of the IFR provides that a borrower that was in operation in all four quarters of 2019 is deemed to have experienced the required revenue reduction if it experienced a reduction in annual receipts of 25 percent or greater in 2020 compared to 2019 and the borrower submits copies of its annual tax forms substantiating the revenue decline.
 - This provision will allow a borrower to provide annual tax return forms to substantiate its revenue reduction.
 - The Administrator, in consultation with the Secretary of the Treasury (Secretary), has determined that this is necessary to improve administrability of Second Draw PPP Loans by providing borrowers an additional verifiable method for substantiating their revenue reduction.
 - This method will be particularly important for small borrowers that may not have quarterly revenue information readily available.
 - Moreover, this approach is appropriate because, if annual filings show a 25 percent revenue reduction, then at least one quarter in 2020 would have had at least a 25 percent revenue reduction.
- A borrower that did not experience a 25 percent annual decline in revenues, or that was not in operation in all four quarters of 2019, may still meet the revenue reduction requirement under one of the quarterly measurements described above.

Revenue Reduction Requirement - Detail

- **The borrower must have experienced a reduction in revenue in calendar year 2020, measured as follows:**
 - the applicant had gross receipts during the first, second, third, or fourth quarter in 2020 that demonstrate at least a 25 percent reduction from the applicant's gross receipts during the same quarter in 2019
 - if the applicant was not in business during the first or second quarter of 2019, but was in business during the third and fourth quarters of 2019, the applicant had gross receipts during the first, second, third, or fourth quarter of 2020 that demonstrate at least a 25 percent reduction from the applicant's gross receipts during the third or fourth quarter of 2019
 - if the applicant was not in business during the first, second, or third quarter of 2019, but was in business during the fourth quarter of 2019, the applicant had gross receipts during the first, second, third, or fourth quarter of 2020 that demonstrate at least a 25 percent reduction from the fourth quarter of 2019
 - If the applicant was not in business during 2019, but was in operation on February 15, 2020, the applicant had gross receipts during the second, third, or fourth quarter of 2020 that demonstrate at least a 25 percent reduction from the gross receipts of the entity during the first quarter of 2020
 - An applicant that was in operation in all four quarters of 2019 is deemed to have experienced the revenue reduction if it experienced a reduction in annual receipts of 25 percent or greater in 2020 compared to 2019 and the borrower submits copies of its annual tax forms substantiating the revenue decline
- **Gross receipts of affiliates are calculated as follows:**
 - Gross receipts of a borrower with affiliates is calculated by adding the gross receipts of the business concern with the gross receipts of each affiliate.
 - If a borrower has acquired an affiliate or been acquired as an affiliate during 2020, gross receipts includes the receipts of the acquired or acquiring concern.
 - This aggregation applies for the entire period of measurement, not just the period after the affiliation arose.
 - However, if a concern acquired a segregable division of another business concern during 2020, gross receipts do not include the receipts of the acquired division prior to the acquisition.
- The gross receipts of a former affiliate are not included. This exclusion of gross receipts of such former affiliate applies during the entire period of measurement, rather than only for the period after which affiliation ceased. However, if a borrower sold a segregable division during 2020, the gross receipts will continue to include the receipts of the division that was sold.

Details of Eligibility for Round 2 PPP Loans

To be eligible for a PPP2 loan businesses must (among other things) have seen at least a 25% decrease in “gross receipts” in comparable quarters of 2020 relative to 2019 (with modified tests for businesses that were not operating in the particular comparable quarter of 2019), but the act does not define “gross receipts.”

The SBA somewhat clarified things in one of its January 6 rules by providing the following definition of “gross receipts”:

Gross Receipts Definition

Gross receipts include **all revenue in whatever form received or accrued (in accordance with the entity’s accounting method)** from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees or commissions, reduced by returns and allowances.

Generally, receipts are considered “total income” (or in the case of a sole proprietorship, independent contractor, or self-employed individual “gross income”) plus “cost of goods sold,” **and excludes net capital gains or losses** as these terms are defined and reported on IRS tax return forms.

Gross receipts do not include the following:

- taxes collected for and remitted to a taxing authority if included in gross or total income (such as sales tax or other taxes collected from customers and excluding taxes levied on the concern or its employees);
- proceeds from transactions between a concern and its domestic or foreign affiliates; and
- amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker.
- The amount of any forgiven First Draw PPP Loan shall not be included toward any borrower’s gross receipts.

All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, investment income, and employee-based costs such as payroll taxes, may not be excluded from gross receipts.

Documentation – TBD

- As per the IFR ,the documentation required to substantiate your payroll cost calculation is generally the same as documents required for First Draw PPP Loans
 - You must provide your Form 941 (or other tax forms containing similar information) and state quarterly wage unemployment insurance tax reporting forms from each quarter in 2019 or 2020 (whichever you used to calculate loan amount), or equivalent payroll processor records, along with evidence of any retirement and health insurance contributions. A payroll statement or similar documentation from the pay period that covered February 15, 2020 must be provided to establish you were in operation on February 15, 2020
 - Schedule C/Form 1040 if self-employed
 - K-1s for General Partners in Partnerships

Also per IFR, if you:

- used calendar year 2019 figures to determine its First Draw PPP Loan amount,
- used the calendar year 2019 figures to determine its Second Draw PPP Loan amount, and
- the lender for the same for the applicant’s Second Draw PPP Loan is the same as the lender for the first draw loan
- The information isn’t required because presumably your lender already has it.
- In addition, IFR mentions that you do not have to submit any documentation for loans under \$150k, you don't have to provide documentation of the 25% reduction with the application. You just need to provide it at the time of applying for forgiveness.
- If you don’t meet the above criteria or are applying for more a principal amount greater than \$150,000, you must submit documentation that proves your 25% or greater revenue reduction in 2020 relative to 2019. That documentation can include relevant tax forms (e.g., Form 941s), including annual tax forms (e.g., Schedule C, Form 1065, Form 1120S), or if relevant tax forms are not available, quarterly financial statements or bank statements.

How can PPP Loans be Used?

- Payroll Costs
- Costs related to the continuation of group health care, life, disability, vision, or dental benefits during periods of paid sick, medical, or family leave, and group health care, life, disability, vision, or dental insurance premiums;
- mortgage interest payments (but not mortgage prepayments or principal payments)
- rent payments;
- utility payments;
- interest payments on any other debt obligations that were incurred before February 15, 2020;
- refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020;
- covered operations expenditures (payments for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses);
- covered property damage costs (costs related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that was not covered by insurance or other compensation);
- covered supplier costs (expenditures made by a borrower to a supplier of goods for the supply of goods that—
 - (A) are essential to the operations of the borrower at the time at which the expenditure is made; and
 - (B) is made pursuant to a contract, order, or purchase order—(i) in effect at any time before the covered period with respect to the applicable covered loan; or (ii) with respect to perishable goods, in effect before or at any time during the covered period with respect to the applicable covered loan);

How can PPP Loans be Used? (Continued)

- covered worker protection expenditures
 - ((A) operating or a capital expenditures to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration, or any equivalent requirements established or guidance issued by a State or local government, during the period beginning on March 1, 2020 and ending the date on which the national emergency with respect to the COVID–19 expires related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID–19;
 - (B) such expenditures may include—
 - (i) the purchase, maintenance, or renovation of assets that create or expand—
 - (I) a drive-through window facility;
 - (II) an indoor, outdoor, or combined air or air pressure ventilation or filtration system;
 - (III) a physical barrier such as a sneeze guard;
 - (IV) an expansion of additional indoor, outdoor, or combined business space;
 - (V) an onsite or offsite health screening capability; or
 - (VI) other assets relating to the compliance with the requirements or guidance as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor;
 - and (ii) the purchase of—(I) covered materials described in section 328.103(a) of title 44, Code of Federal Regulations, or any successor regulation; (II) particulate filtering facepiece respirators approved by the National Institute for Occupational Safety and Health, including those approved only for emergency use authorization; or (III) other kinds of personal protective equipment, as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor; and (C) such expenditures do not include residential real property or intangible property)

At least 60 percent of the PPP loan proceeds shall be used for payroll costs. For purposes of determining the percentage of use of proceeds for payroll costs, the amount of any EIDL refinanced will be included

Payroll Costs Defined

What qualifies as “payroll costs?”

Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of :

- salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips);
- payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal;
- payment for the provision of employee benefits consisting of group health care or group life, disability, vision, or dental insurance, including insurance premiums, and retirement;
- payment of state and local taxes assessed on compensation of employees; and
- for an independent contractor or sole proprietor: wages, commissions, income, or net earnings from self-employment, or similar compensation.

Is there anything that is expressly excluded from the definition of payroll cost

1. Any compensation of an employee whose principal place of residence is outside of the United States;
2. The compensation of an individual employee in excess of \$100,000 on an annualized basis, as prorated for the period during which the payments are made or the obligation to make the payments is incurred;
3. Federal employment taxes imposed or withheld during the applicable period, including the employee’s and employer’s share of FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes, and income taxes required to be withheld from employees; and
4. Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116– 127)

General Eligibility Questions for all Programs

- Did your business have a 50% reduction in revenue in any quarter compared to the same quarter in 2019? (ERC 2020)
- Did your business have a 25% reduction in revenue in any quarter compared to the same quarter in 2019? (PPP Round2)
- Did your business have a 20% reduction in revenue in the 4th quarter of 2020 compared to the 4th quarter of 2019? (ERC 2021)
- Was your business subject to mandatory government shutdown at any point in 2020 due to Covid-19? (ERC 2020)

Questions?

Thank you for your time

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