

# PAYCHECK PROTECTION PROGRAM Second Draw Loans

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## INTERIM FINAL RULE AND SECOND DRAW BORROWER APPLICATION FORM

December 27, 2020, Economic Aid Act authorized SBA to guarantee additional loans under Paycheck Protection Program (“PPP”)

Program called “Paycheck Protection Program Second Draw Loans” (“PPP2”)

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## INTERIM FINAL RULE AND SECOND DRAW BORROWER APPLICATION FORM

Under PPP, SBA guarantees Second Draw loans to Borrowers that (i) **previously received a PPP1 (First Draw) loan**, and (ii) have used or will use full amount of PPP 1 (First Draw) loan for authorized purposes on or before disbursement of PPP2 (Second Draw) loan

PPP2 (Second Draw) loans must be applied for by **March 31, 2021**

PPP2 (Second Draw) portal opens soon ... get organized

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## WHAT ABOUT PPP1

- What if Borrower did not receive a PPP1 (First Draw) loan?
  - SBA has “re-opened” PPP1 (First Draw) portal (\$137 billion available)
  - Therefore, first time PPP Borrowers allowed to apply under PPP1 ... and ... with some of more beneficial criteria established under PPP2 (additional “Payroll Costs,” broader use of loan proceeds, no offset of EIDL grant, etc.)

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## WHAT ABOUT PPP1

- What if not all PPP1 (First Draw) loan used or forgiven?
  - Borrower that did not receive PPP1 (First Draw) forgiveness by December 27, 2020, may (i) reapply under PPP1 if Borrower previously returned some or all of PPP1 (First Draw) loan ... or ... (ii) request to modify PPP1 (First Draw) loan amount if Borrower did not previously request full amount for which Borrower is eligible

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## WHAT ABOUT PPP1

- Indications (but not promises) from SBA that
  - If Borrower did not receive 100% forgiveness, but would have under new PPP2 rules, Borrower may be able to amend its forgiveness application
  - If Borrower did not receive 100% forgiveness because of EIDL grant offset, Borrower may get those funds back

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## PPP2 - GENERALLY

- Guarantee 100%
- No Collateral
- No personal guarantees

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## PPP2 - GENERALLY

- 1% annual interest (on amounts not forgiven)
- Maturity 5 years

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## ELIGIBILITY

- PPP2 provides Borrower is eligible for second draw loan if:
  - Borrower was in operation before February 15, 2020;
  - Borrower has fewer than 300 employees;
  - Borrower experienced 25% reduction in revenue from 2019 to 2020;

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## ELIGIBILITY

- Borrower received PPP1 loan; and
- Borrower has spent or will spend all PPP1 loan before scheduled disbursement of PPP2 loan

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## REVENUE REDUCTION REQUIREMENT

- Borrower must demonstrate revenue reduction of 25% or more in 2020 relative to 2019
- Several formulas
- Use formula most beneficial to Borrower

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## REVENUE REDUCTION REQUIREMENT

- Most common calculation ... Borrower demonstrates 25% revenue reduction by comparing “gross receipts” in 1 quarter of 2020 with corresponding quarter of 2019
- “Gross receipts” do not include amounts forgiven from PPP1 loan

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## REVENUE REDUCTION REQUIREMENT

- Alternative Calculations
  - If Borrower operating all of 2019, then Borrower may elect to demonstrate 25% revenue reduction by comparing year-to-year (2020 vs. 2019) instead of quarter-to-quarter
  - If Borrower not operating in 1<sup>st</sup> and 2<sup>nd</sup> quarter of 2019, but operating in 3<sup>rd</sup> and 4<sup>th</sup> ... then Borrower must demonstrate gross receipts in any quarter of 2020 were 25% lower than in either 3<sup>rd</sup> or 4<sup>th</sup> quarter of 2019

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## REVENUE REDUCTION REQUIREMENT

- If Borrower not operating in 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> quarter of 2019, but operating in 4<sup>th</sup> ... then Borrower must demonstrate gross receipts in any quarter of 2020 were 25% lower than 4<sup>th</sup> quarter of 2019
- If Borrower not operating in 2019, but operating by February 15, 2020 ... then Borrower must demonstrate gross receipts in 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> quarter of 2020 were 25% lower than 1<sup>st</sup> quarter of 2020 (presumably 1<sup>st</sup> quarter numbers will be interpolated)

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## LOAN SIZE

- PPP2 loan size is lesser of \$2 million or 2.5 x Borrower's average monthly "Payroll Costs"
- Always exclude "Payroll Costs" in excess of \$100,000 on an annualized basis
- Calculation of average monthly "Payroll Costs" based on (i) 12 month period prior to PPP2 loan application, (ii) all of calendar year 2019 or (iii) all of calendar year 2020

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## LOAN SIZE

- For seasonal employers (operate not more than 7 months/yr or gross receipts for any 6 months less than 1/3 of gross receipts for other 6 months) calculate average monthly "Payroll Costs" for any 12-week period between 2/15/19 and 2/15/2020 by 2.5
- For new organizations calculate based on 2.5 x average monthly "Payroll Costs" since February 15, 2020

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## LOAN SIZE

- “Payroll Costs”
  - Compensation to employees residing in USA, excluding annualized amounts over \$100,000 (salary, wages, commissions or similar compensation)
  - Cash tips or equivalent (based on employer records of past tips or reasonable, good-faith employer estimate of tips)
  - Payment for vacation, parental, family, medical or sick leave

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## LOAN SIZE

- Allowances for separation or dismissal
- Payments for employee benefits like group health coverage (including insurance premiums) and retirement
- Group life, disability, vision and dental insurance premiums
- Payment of state and local taxes assessed on compensation

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## PERMITTED USES OF LOAN PROCEEDS

- Focus on 60/40 split for full forgiveness
- Same Permitted Uses as Under PPP1
  - “Payroll Costs” (60%)
  - Mortgage interest
  - Rent
  - Utilities

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## PERMITTED USES OF LOAN PROCEEDS

- New and Additional Uses of Loan Proceeds Under PPP2
  - Payments for software, cloud computing and other human resources and accounting needs
  - Uninsured costs related to property damage caused by civil unrest
  - Supplier costs for borrower’s “essential needs” pursuant to written agreement executed before December 27, 2020 (e.g. contract, purchase order etc.) ... or ... costs related to perishable goods at any time
  - Costs for PPE and costs to comply with COVID-related safety guidelines

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## ELIGIBILITY FOR LOAN FORGIVENESS

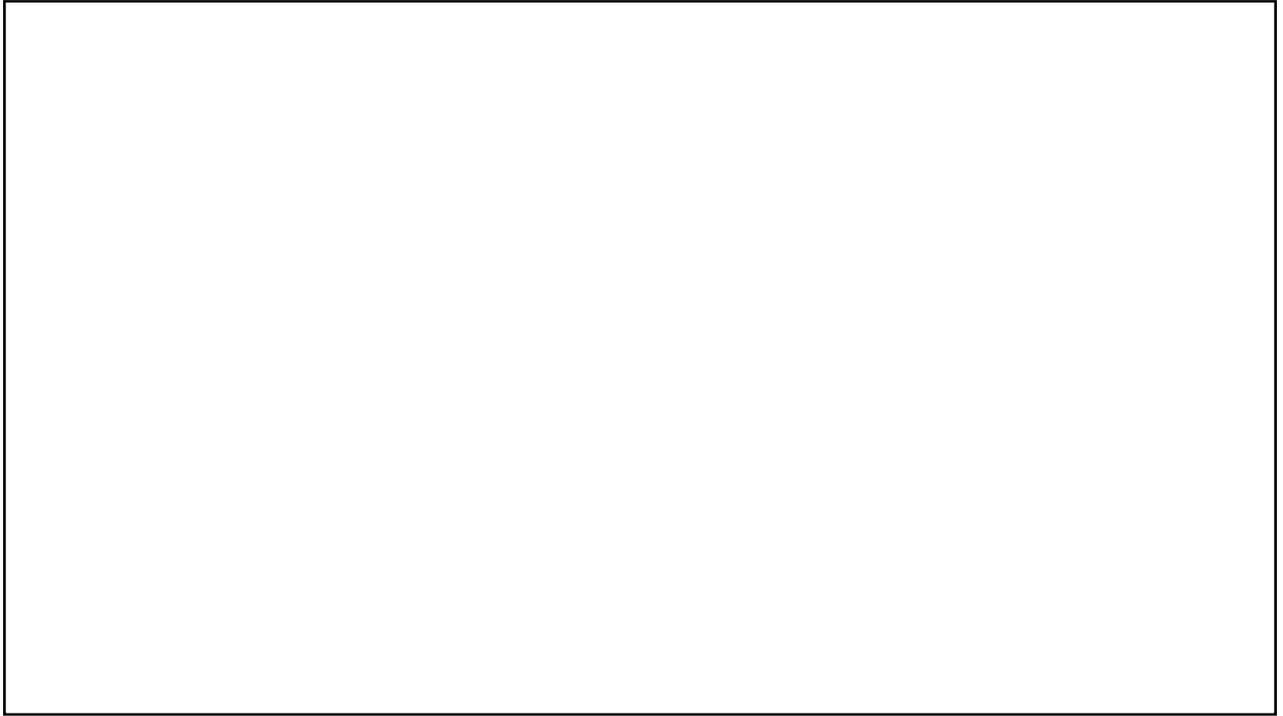
- At least 60% of loan must be spent on “Payroll Costs”
- After receipt of loan proceeds, borrower entitled to select its own “covered period” between 8 and 24 weeks
- For 100% forgiveness, Borrower must use all loan proceeds in Borrower’s “covered period” and 60% must be used on “Payroll Costs”

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## DOCUMENTATION

- See PPP2 loan application, which is attached
- Documentation streamlined for Borrower’s requesting less than \$150,000

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