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## ALERT

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### SECOND DRAW PPP LOANS AND RESUMPTION OF FIRST DRAW LOANS

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In consultation with the U.S. Treasury Department, the SBA began accepting applications for Second Draw Paycheck Protection Program (PPP) Loans (“Second Draw Loans”) on January 13, 2021. The SBA is currently accepting Second Draw Loan applications from participating lenders.

Additionally, the SBA has reopened applications for First Draw PPP Loans (“First Draw Loans”).

There are certain new features applicable to both 2021 First Draw Loans and Second Draw Loans. Further, certain of the requirements for the Second Draw Loans differ from the requirements for the First Draw Loans.

#### For Which 2021 PPP Loan May My Business Apply?

Second Draw:

- Businesses that received a First Draw PPP Loan in 2020 and have exhausted or will exhaust the First Draw Loan amount.

First Draw:

- Businesses that have not yet received a PPP Loan; or
- Businesses that received a First Draw PPP Loan in 2020 and meet certain conditions.

#### Second Draw Loan Overview

The PPP now allows certain eligible borrowers that previously received a PPP loan to apply for a Second Draw Loan with the same general loan terms as their First Draw Loan. Second Draw Loans may be used to help fund payroll costs, including employee benefits. Funds may 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.

At least Twenty-Five Billion Dollars (\$25,000,000,000) is being set aside for Second Draw Loans to eligible borrowers with a maximum of ten (10) employees or for loans of Two Hundred Fifty Thousand Dollars (\$250,000) or less to eligible borrowers in low or moderate income neighborhoods.

#### Maximum Loan Amount; Increased Assistance for Accommodation and Food Services

For most borrowers, the maximum loan amount for a Second Draw Loan is two and one-half times (2.5x) average monthly 2019 or 2020 payroll costs, up to Two Million Dollars (\$2,000,000).

For borrowers in the Accommodation and Food Services sector (use [NAICS 72](#) to confirm), the maximum loan amount for a Second Draw Loan is three and one-half times (3.5x) the average monthly 2019 or 2020 payroll costs, up to Two Million Dollars (\$2,000,000).

#### Which Businesses May Qualify

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

- Previously received a First Draw Loan and will or has used the full amount only for authorized uses;

- Has no more than three hundred (300) employees; and
- Can demonstrate at least a twenty-five percent (25%) reduction in gross receipts between comparable quarters in 2019 and 2020.

The following entities affected by Coronavirus (COVID-19) may be eligible:

- Sole proprietors, independent contractors and self-employed persons
- Any small business concern that meets SBA's size standards (either the industry size standard or the alternative size standard)
- Any business, 501(c)(3) non-profit organization, 501(c)(19) veterans organization, or tribal business concern (sec. 31(b)(2)(C) of the Small Business Act) with the greater of 500 employees or that meets the SBA industry size standard if more than 500
- Any business with a NAICS code that begins with 72 (Accommodations and Food Services) that has more than one physical location and employs less than 500 per location.

Additionally, the SBA has clarified that both Second Draw Loans and First Draw Loans are now available to the following types of organizations:

- 501(c)(6) organizations
- Housing cooperatives
- Eligible destination marketing organizations that employ no more than 300 employees
- News organizations that are majority owned or controlled by a NAICS code 511110 or 5151 business and nonprofit public broadcasting entities with a trade or business under NAICS 511110 or 5151, that employ no more than 500 employees (or, if applicable, the size standard in number of employees established by SBA in 13 C.F.R. 121.201 for the industry) per location.

### **Second Draw Loan Requirements Compared With First Draw Loans**

\*\*\*Must have three hundred (300) or fewer employees vs. First Draw allows up to five hundred (500) employees.

\*\*\*Must have had a twenty-five percent (25%) reduction in revenue (i.e., gross receipts) in 2020 relative to 2019 vs. First Draw required only that the applicant have "economic uncertainty".

- The applicant will use a quarter-to-quarter comparison for calculating revenue reduction, e.g. comparing second quarter 2019 with second quarter 2020.
- Alternatively, an applicant who was in operation for all four (4) quarters of 2019 may use an aggregate-year comparison, by providing copies of its the 2019 and 2020 tax returns that show a reduction in annual receipts of twenty-five percent (25%) or greater in 2020 compared with 2019.
- Will be required to provide this documentation upfront when applying for any Second Draw Loan in excess of One Hundred Fifty Thousand Dollars (\$150,000).
- Forgiven First Draw Loans are not included in 2020 gross receipts.

\*\*\*Unlike First Draw Loans issued in 2020, the Second Draw includes additional expenses – including 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 – as permitted uses of the loan proceeds. These expenses will be includable when applying for loan forgiveness. **Please note that these same expanded expenses are allowable for 2021 First Draw Loans** (as described below).

\*\*\*The Second Draw Loan is more tailored to small businesses and businesses in struggling sectors of the economy or in low or moderate income neighborhoods, with a smaller maximum loan amount and lower employee threshold.

### **How and When to Apply**

Businesses may apply for a Second Draw Loan until **March 31, 2021**. The SBA is currently accepting Second Draw Loan applications from participating lenders. The website [Lender Match](#) can help connect you with a lender. You can also [view all lenders near you on a map](#). *All Second Draw Loans will have the same terms regardless of lender or borrower.*

If you wish to begin preparing your application, you can download the following PPP borrower application form to see the information that will be requested from you when you apply with a lender: [Paycheck Protection Program Second Draw Borrower Application Form](#) (released 01-08-21).

## Additional First Draw Loan Funding

The SBA reopened First Draw Loans the week of January 11, 2021. Existing PPP borrowers that did not receive loan forgiveness by December 27, 2020 may:

- Reapply for a First Draw Loan if they previously returned some or all of their First Draw Loan funds; or
- Under certain circumstances, request to modify their First Draw Loan amount if they previously did not accept the full amount for which they are eligible.

Certain businesses that received a PPP loan in 2020 may consider applying for an additional First Draw Loan if they meet the requirements of the additional First Draw Loan.

Like Second Draw Loans, First Draw Loans may be used to help fund payroll costs, including benefits, and may 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.

Eligible businesses may apply for a First Draw Loan until **March 31, 2021**.

As with the 2020 PPP loans, both First Draw and Second Draw Loans issued in 2021 will be eligible for forgiveness if all employee retention criteria are met and at least sixty percent (60%) of the loan proceeds are used for qualifying payroll costs and other eligible expenses.

For both First Draw and Second Draw Loans, for purposes of calculating loan forgiveness eligibility, borrowers may elect a covered period that is between eight (8) and twenty-four (24) weeks. For all non-forgiven funds:

- The loans have an interest rate of One Percent (1%).
- Loans issued prior to June 5, 2020 have a maturity of two (2) years. Loans issued after June 5, 2020 have a maturity of five (5) 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 ten (10) months after the end of the covered period for the borrower's loan forgiveness (either eight (8) weeks or twenty-four (24) weeks).
- No collateral or personal guarantees are required.
- Neither the government nor lenders will charge small businesses any fees.

As provided in the 2021 Consolidated Appropriations Act, specifically the "COVID-related Tax Relief Act of 2020", expenses paid with PPP loan proceeds, including forgiven loan proceeds, are tax-deductible.

If you have any questions or would like further clarification on the PPP Second Draw or First Draw Loan programs, please feel free to reach out to us.



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