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PPP Second Draw

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PPP Second Draw Webinar Agenda

- Program Definitions
- Program Overview
- Eligibility Requirements
- Additional Application Documentation
- 2nd Draw Loan Calculations
- Attestations and Certifications

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PPP Program Definitions

- Reference Period
 - The date range utilized to determine the amount of the PPP loan.
- Covered Period
 - The 8 to 24 week period following the disbursement of the PPP loan.
- FTE
 - Full-Time Equivalent

PPP Program Definitions

– 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
- For an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation.

PPP Program Definitions

– Expenses Specifically Excluded from Payroll Costs

- Any compensation of an employee whose principal place of residence is outside of the United States;
- 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;
- 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
- 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).

Paycheck Protection Program (PPP) 2nd Draw

- Allows for a second loan under the Paycheck Protection Program (PPP)
- Re-opens the program for 1st Draw Applicants
- Increases the loan calculation for businesses in the 72 NAICS Code (Accommodations and Food Service) from 2.5 average monthly payroll to 3.5 average monthly payroll
- Streamlines the forgiveness process for PPP loans of less than \$150K

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Paycheck Protection Program – 2nd Draw

- Loan Amounts:
 - 2.5 Average Monthly Payroll
 - 3.5 Average Monthly Payroll (72 NAISC Codes)
 - Maximum \$2 million
- 60% of loan proceeds must be used for eligible payroll expenses to qualify for forgiveness.
- Up to 100% of the loan is eligible for forgiveness
- Unforgiven balances:
 - 5 year term
 - 1%
 - No collateral
 - No personal guarantee
- Last day to apply is 03.21.21

PPP Use of Proceeds

1. Eligible Payroll Costs
2. Costs related to the continuation of group health care, life, disability, vision, or dental benefits during period of paid sick, medical or family leave
3. Group health care, life, disability, vision or dental insurance premiums
4. Mortgage interest payments
 - a. Incurred prior to 02.15.20
5. Rent payments
 - a. Incurred prior to 02.15.20
6. Utility payments
 - a. Incurred prior to 02.15.20
7. Interest payments on other debt obligations
 - a. Incurred prior to 02.15.20

PPP Use of Proceeds

8. Refinancing of EIDL loan issued between 01.31.20 and 04.03.20

9. Covered operations expenditures

Payment for any software, cloud computing, and other human resources and accounting needs.

10. Covered property damage costs

Costs related to property damage due to public disturbances that occurred during 2020 that are not covered by insurance.

11. Covered supplier costs

Expenditures to a supplier pursuant to a contract, purchase order, or order for goods in effect prior to taking out the loan that are essential to the recipient's operations at the time at which the expenditure was made. Supplier costs of perishable goods can be made before or during the life of the loan.

PPP Use of Proceeds

12. 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 during the period between March 1, 2020, and the end of the national emergency declaration.

Eligibility Criteria

—In operations on or before 02.15.20

- Either had employees for whom you paid salaries and payroll taxes or
- Paid independent contractors, as reported on a Form 1099-MISC or
- You were an eligible self-employed individual, independent contractor, or sole proprietorship with no employees.

—Have less than 300 employees

—Have used or will use the full amount of their first PPP loan

—Demonstrate a 25% reduction in gross receipts in the 1st, 2nd or 3rd quarter of 2020 relative to the same 2019 quarter

— Applications submitted after January 1, 2021 are eligible to utilize the gross receipts for 2020

PPP 2nd Draw Eligibility

- Second Draw PPP Loan may only be made to an eligible borrower that
 - *Has received a First Draw PPP Loan, and*
 - *Has used, or will use, the full amount of the First Draw PPP Loan on or before the expected date on which the Second Draw PPP Loan is disbursed to the borrower*
- If a borrower's First Draw PPP loan is under review by SBA and/or information in SBA's possession indicates that the borrower may have been ineligible for the First Draw PPP Loan it received or for the loan amount it received, the lender will receive notification from SBA when the lender submits an application for a guaranty of a Second Draw PPP Loan and will not receive an SBA loan number until the issue related to the unresolved borrower's First Draw PPP Loan is resolved.

PPP 2nd Draw Eligibility

- Second Draw PPP Loan may only be made to an eligible borrower that
 - *Has received a First Draw PPP Loan, and*
 - *Has used, or will use, the full amount of the First Draw PPP Loan on or before the expected date on which the Second Draw PPP Loan is disbursed to the borrower*
- The borrower must have spent the full amount of its First Draw PPP Loan on eligible expenses under the PPP rules to be eligible for a Second Draw PPP Loan.

PPP 2nd Draw Eligibility

—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

—For example, an applicant that had gross receipts of \$50,000 in the third quarter of 2019 and had gross receipts of \$30,000 in the third quarter of 2020—demonstrating a reduction of 40 percent from the applicant's gross receipts during the third quarter in 2019

PPP 2nd Draw Eligibility

—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

—For example, an applicant that had gross receipts of \$50,000 in the fourth quarter of 2019 and had gross receipts of \$30,000 in the fourth quarter of 2020—demonstrating a reduction of 40 percent from the applicant's gross receipts during the fourth quarter in 2019

PPP 2nd Draw Eligibility

- 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
 - For example, an applicant that had gross receipts of \$50,000 in the first quarter of 2020 and had gross receipts of \$30,000 in the fourth quarter of 2020 – demonstrating a reduction of 40 percent from the applicant’s gross receipts during the first quarter in 2020
- An applicant that was in operation in all four quarters of 2019 is deemed to have experienced the revenue reduction in subsection (c)(1)(iv)(A)(1) 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.

Eligibility Criteria – Size Standards

- Small business based on the SBA size standard for your industry
- Independent contractors, self employed individuals and sole proprietors
- Non-profit organizations - 501(c)(3)
 - Employs no more than 500 employees
- Non-profit organizations - 501(c)(3)
 - Employs no more than 500 employees
- Non-profit organizations - 501(c)(3)
 - Employs no more than 500 employees
- Tribal business concern - 31(b)(2)(c)
 - Employs no more than 500 employees
- Housing cooperative
 - Eligible 501(c)(6) organization
 - Eligible destination marketing organization
 - Employs no more than 300
- News organization
 - Majority owned or controlled by a NAICS code 511110 or 5151 business or
 - A nonprofit public broadcasting entity with a trade or business under NAICS 511110 or 5151
 - Employs no more than 500 employees

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PPP 2nd Draw Application Required Documentation

—The documentation required to substantiate an applicant's payroll cost calculations is generally the same as documentation required for First Draw PPP Loans.

—No additional documentation to substantiate payroll costs will be required if the applicant

—Used calendar year 2019 figures to determine its First Draw PPP Loan amount,

—Used calendar year 2019 figures to determine its Second Draw PPP Loan amount (instead of calendar year 2020), and

—The lender for the applicant's Second Draw PPP Loan is the same as the lender that made the applicant's First Draw PPP Loan.

—In such cases, additional documentation is not required because the lender already has the relevant documentation supporting the borrower's payroll costs.

—The lender may request additional documentation, however, if on further review the lender concludes that it would be useful in conducting the lender's good-faith review of the borrower's loan amount calculation.

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PPP 2nd Draw Application Required Documentation

—For loans with a principal amount greater than \$150,000,

—The applicant must also submit documentation adequate to establish that the applicant experienced a revenue reduction of 25% or greater in 2020 relative to 2019.

—Such documentation may include relevant tax forms, including annual tax forms, or, if relevant tax forms are not available, quarterly financial statements or bank statements.

—For loans with a principal amount of \$150,000 or less, such documentation is not required at the time the borrower submits its application for a loan, but must be submitted on or before the date the borrower applies for loan forgiveness, as required under the Economic Aid Act.³⁰

—If a borrower does not submit an application for loan forgiveness, such documentation must be provided upon SBA's request.

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PPP 2nd Draw Application Required Documentation

- Second Draw PPP Loan greater than \$150,000, the lender must confirm the dollar amount and percentage of the borrower's revenue reduction by performing a good faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning the borrower's revenue reduction.
- If the lender identifies errors in the borrower's calculation or a material lack of substantiation in the borrower's supporting documents, the lender should work with the borrower to remedy the issue.

Documenting the 25% Reduction in Revenue Forgiveness Application

- An eligible borrower that received a loan of \$150,000 or less shall not, at the time of its application for loan forgiveness, be required to submit any application or such borrowers must retain records relevant to the form that prove compliance with the PPP requirements
 - With respect to employment records, for the 4-year period following submission of the loan forgiveness application, and with respect to other records, for the 3-year period following submission of the loan forgiveness application.
- All other borrowers must follow the existing requirements for loan forgiveness applications and records retention.

PPP Loan Calculations

- PPP loans approved in 2020 used 2019 or the 1-year before the date on which the loan is made to calculate payroll costs for purposes of calculating the maximum loan amount.
- Borrowers who apply for PPP loans 2021 and who are not self-employed (including sole proprietorships and independent contractors) are permitted to use the precise 1-year period before the date on which the loan is made to calculate payroll costs if they choose not to use 2019 or 2020.

PPP Loan Calculations

Step 1: Calculate the payroll expenses

—From 2019 or 2020 for employees whose principal place of residence is the U.S.

Step 2: Subtract any compensation paid to an employee in excess of \$100,000 on an annualized basis

—From 2019 or 2020 for employees whose principal place of residence is the U.S.

Step 3: Calculate the average monthly payroll costs

—Divide the amount from Step 2 by 12

Step 4: Multiply by 2.5

—Businesses with a NAICS code starting with 72 – Accommodations and Food Service multiply by 3.5

Calculation Examples

No employees make more than \$100,000

Annual payroll:

\$120,000

Average monthly payroll:

\$10,000

Multiply by 2.5 =

\$25,000

Maximum loan amount is \$25,000

Some employees make more than \$100,000

Annual payroll:

\$1,500,000

Subtract compensation amounts in excess of an annual salary of \$100,000:

\$1,200,000

Average monthly qualifying payroll:

\$100,000

Multiply by 2.5 =

\$250,000

Maximum loan amount is \$250,000

PPP Loan Calculations – Schedule C Filers No Employees

Step 1: Find your 2019 or 2020 IRS Form 1040 Schedule C line 31 net profit amount

- If you are using 2020 to calculate payroll costs and have not yet filed a 2020 return, fill it out and compute the value).
- If this amount is over \$100,000, reduce it to \$100,000.
- If this amount is zero or less, you are not eligible for a PPP loan.

Step 2: Calculate the average monthly net profit amount

- Divide the amount from Step 1 by 12

Step 3: Multiply by 2.5

- 2.5

PPP Loan Calculations – Seasonal Employers

A borrower is a seasonal employer if it:

- Does not operate for more than 7 months in any calendar year or,
- During the preceding calendar year, it had gross receipts for any 6 months of that year that were not more than 33.33 percent of the gross receipts for the other 6 months of that year

Step 1: Average total monthly payments for payroll for any 12-week period selected by the seasonal employer beginning February 15, 2019, and ending February 15, 2020

Step 3: Multiply by 2.5

- Businesses with a NAICS code starting with 72 – Accommodations and Food Service multiply by 3.5

Application Certifications

- The Applicant was in operation on February 15, 2020, has not permanently closed, and was either an eligible self-employed individual, independent contractor, or sole proprietorship with no employees, or had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099-MISC.*
- Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.*

Application Certifications

—The funds will be used to retain workers and maintain payroll; or make payments for mortgage interest, rent, utilities, covered operations expenditures, covered property damage costs, covered supplier costs, and covered worker protection expenditures as specified under the Paycheck Protection Program Rules; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable such as for charges of fraud. (As explained above, not more than 40 percent of loan proceeds may be used for nonpayroll costs.)

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Application Certifications

- I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, covered utilities, covered operations expenditures, covered property damage costs, covered supplier costs, and covered worker protection expenditures, and not more than 40% of the forgiven amount may be for non-payroll costs. If required, the Applicant will provide to the Lender and/or SBA documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of eligible expenses for the covered period following this loan.*
- The Applicant has not and will not receive another loan under the Paycheck Protection Program, section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) (this does not include Paycheck Protection Program second draw loans, section 7(a)(37) of the Small Business Act (15 U.S.C. 636(a)(37)).*

Application Certifications

- The Applicant has not and will not receive a Shuttered Venue Operator grant from SBA.*
- 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, does not directly or indirectly hold a controlling interest in the Applicant, with such terms having the meanings provided in section 322 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act.*
- The Applicant is not 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).*

Application Certifications

- I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 U.S.C. 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 U.S.C. 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.*
- I acknowledge that the Lender will confirm the eligible loan amount using required documents submitted. I understand, acknowledge, and agree that the Lender can share the tax information with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.*

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Questions?

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For assistance:

Existing clients:

Please e-mail and/or call your advisor to schedule an appointment.

Kate Baker

Greg Chanese

Emily Loughlin

Jen Kilcoyne

Matt Hosek

Matt Masterson

Nora Reynolds

Tom Reynolds

Janet Tanguay

Walter Burke

New Clients:

Go to www.nysbdc.org, click on Make an Appointment, and submit the form to have an advisor assigned to assist you.

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