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SBA Issues Guidance for Expanded Paycheck Protection Program

On January 6, 2021, the Small Business Administration (SBA) released new guidance for the Paycheck Protection Program (PPP), which was expanded under the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (CAA) that formed a key part of the Consolidated Appropriations Act, 2021. This additional guidance indicates that lenders are authorized to re-open their portals and application processes to allow small business borrowers to apply both for new First Draw PPP Loans and for Second Draw PPP Loans through March 31, 2021. The PPP reboot launched January 11, 2021; application forms for the [Second Draw Loans](#) and the updated [First Draw Loans](#) are on the SBA's website and closely resemble the original PPP application form.

The guidelines implement the new rules announced under the CAA and largely reiterate that the existing PPP guidelines will remain in place, except as otherwise amended by the CAA. The new guidance includes helpful information about additional 'eligible costs' for which PPP funds may be used, additional eligible classes of borrowers previously excluded from the PPP, and how certain borrowers can seek to re-apply for funds not taken or not available to them during the initial First Draw PPP application period. The guidelines also limit the maximum borrowing for affiliated borrower groups and elaborate on a borrower's access to a Second Draw loan if its First Draw loan is "under review."

Second Draw PPP Loans. On January 11, 2021, the SBA launched the application process for the Second Draw PPP Loans of up to \$2 million to borrowers that have used, or will use, all of their First Draw PPP Loans. The forms are Form 2483 – Paycheck Protection Program Borrower Application Form and Form 2483-SD – PPP Second Draw Borrower Application Form. Form 2483 is updated from previous iterations that started with the original PPP program. Form 2483-SD is a new form for qualified PPP borrowers to seek a second draw of a forgivable loan as they try to navigate economic seas churning in the throes of the COVID-19 pandemic. The Second Draw PPP Loans are subject to the following rules and conditions:

- **Gross Revenue Reductions in 2020:** Under the CAA, a key eligibility requirement for a Second Draw PPP Loan is that the borrower must have experienced a twenty-five percent (25%) or greater reduction in gross revenue in any quarter in 2020 compared to the same quarter in

2019. The regulations clarify that if a borrower experiences a twenty-five percent (25%) or greater reduction in annual gross from 2019 to 2020, then this requirement is deemed to have been satisfied. The regulations incorporate a broad definition of “gross receipts,” but exclude the forgiveness of First Draw PPP Loans from that definition.

- **Limit for Corporate Groups:** The regulations impose a \$4 million limit on all Second Draw PPP Loans for corporate groups, which are defined as businesses that are majority-owned, directly or indirectly, by a common parent.

- **Second Draw Loans if First Draw is Under Review:** The regulations specify that if a First Draw PPP Loan is under review according to PPP rules and/or information in the SBA’s possession indicates that the borrower may have been ineligible for the First Draw PPP Loan, the SBA will not authorize a Second Draw Loan for that borrower but will work expeditiously to complete its review. Borrowers and their lenders may first learn that their First Draw PPP Loans are under review as a result of their Second Draw applications.

- **Must Be in Business:** The regulations specify that Second Draw PPP Loans are not available to borrowers that have permanently closed.

- **Payroll Cost Documentation:** For Second Draw PPP Loan application purposes, if a borrower used 2019 figures for its First Draw PPP Loan application, it may again use those same figures to determine its Second Draw PPP Loan amount (instead of using 2020 figures).

The SBA is re-opening the PPP to allow small businesses that were previously ineligible, returned, did not accept, or did not receive all the PPP loan funds available to them to get new PPP Loans or supplemental PPP funds as part of their First Draw PPP Loan.