

# Second Draw Paycheck Protection Program Loans: Answers to Employers' Frequently Asked Questions

Article By:

Michael K. Mahoney

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The Consolidated Appropriations Act (CAA), 2021 includes a provision that modified and extended the Small Business Administration's (SBA) [Paycheck Protection Program](#) (PPP). Specifically, Section 311 of the Additional Coronavirus Response and Relief provisions of the CAA provides for PPP second draw loans for eligible businesses. Employers seeking a PPP loan may apply through March 31, 2021. Below are answers to some key questions regarding second draw PPP loans.

## **Question 1. What are some key distinctions between first and second draw PPP loans?**

Answer 1. Second draw PPP loans are intentionally narrower and smaller in terms of eligibility and amount. In order to be eligible, businesses must be able to demonstrate that they experienced a 25 percent reduction in gross receipts in a 2020 calendar quarter compared to the same quarter in 2019. While first draw PPP loans were capped at \$10 million per borrower based on payroll costs in 2019, second draw PPP loans have a maximum of \$2 million per borrower based on payroll costs in either 2019 or 2020. Additionally, first draw PPP loans were subject to a \$20 million maximum for businesses that were part of a single corporate group, but second draw loans are subject to a \$4 million maximum.

## **Q2. What employer missteps may impact forgiveness for PPP loans?**

A2. A common mistake is not looking at the loan forgiveness application or their own data until after the conclusion of the "covered period." This may limit a borrower's ability to implement strategies that take advantage of the various safe harbors or exceptions to rules that reduce the amount of the loan that may be forgiven.

Another common mistake occurs when borrowers do not maintain PPP loan records in a centralized location, which may cause them to scramble to collect the information needed when they are completing the loan forgiveness application. In some instances, employers may not be able to find documents to substantiate unique situations, such as bona fide offers to rehire terminated employees that were refused or employee requests for reduced hours.

## **Q3. What steps might employers take to aid in managing the requirements for loan forgiveness?**

A3. Borrowers may want to start contemplating loan forgiveness before they receive their loan disbursements. For example, in order to properly account for these funds, consider setting up a separate bank account to receive the PPP loan distribution. This step will streamline a borrower's ability to track how each dollar of the loan is spent.

Borrowers may also want to contact their vendors shortly after receiving their loans to determine what type of reporting features may be available to help them document the permitted payroll and non-payroll costs during the covered period. Many vendors are producing standardized PPP loan reports that facilitate a borrower's ability to complete the loan forgiveness application.

**Q4. Are there any special considerations in the PPP loan process?**

A4. In an effort to provide targeted relief to businesses that have been hardest hit by the pandemic, there are special rules in place for determining eligibility and the maximum amount of the PPP loans for borrowers that are in the hotel or restaurant industries (those with an NAICS code beginning with 72).

Borrowers that receive a loan in excess of \$2 million are subject to a higher level of scrutiny and review following submission of their loan forgiveness applications. In addition to a mandatory SBA audit, such borrowers also need to complete an additional loan necessity questionnaire on SBA Form 3508 or 3509 (depending on their for-profit status).

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