

## **New Changes to PPP and EIDL Loan Programs**

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The Paycheck Protection Program (PPP) was created to provide loans to support small businesses and save jobs during the COVID-19 pandemic. New legislation seeks to offer opportunities for qualifying businesses to receive a first or second forgivable PPP loan.

On December 27, 2020, the Consolidated Appropriations Act, 2021, was signed into law. It offers qualified business owners an opportunity to apply for a new PPP loan through March 15, 2021. This includes business who participated in the prior program and had a loan forgiven. It is anticipated the Treasury will issue further guidance on this new program in the future.

### **Key Provisions of the New PPP Bill**

#### **General**

- Qualified business expenses covered by PPP loans are tax deductible.
- The PPP loan amount forgiven does not constitute business income.
- The covered period for prior loans is extended to March 31, 2021, retroactive to the effective date of the CARES Act.
- Borrowers may now choose the end of their forgiveness covered period between 8 and 24 weeks after loan origination.

#### **Eligibility**

- Eligible businesses include for-profit businesses, certain nonprofit organizations (as defined in the provisions), and Schedule F Farmers.
- Among other exclusions, these loans are not available for publicly traded companies.
- The business must have been in operation by February 15, 2020.
- Eligible employers include those with not more than 300 employees.
- The business must have sustained a 25 percent reduction in revenue in any quarter in 2020, when measured against the same quarter in 2019.

#### **Loan and Forgiveness Guidelines**

- The maximum loan amount under the new PPP program is \$2 million.
- Prior recipients of PPP loans are eligible for a new loan if they meet program qualifications, but the prior PPP funds must have been expended.
- The maximum loan amount for second PPP borrowers is equal to 2.5 times their average monthly payroll, based on the 2019 calendar year or a one-year lookback period.
- Prior recipients of a PPP loan who received less than \$150,000 can submit a one-page forgiveness application to the bank (appropriate documentation and records retention is still critical for the borrower).
- The PPP loan is forgivable, but 60 percent of it must be spent on payroll costs.

#### **PPP Loan Forgiveness Changes**

One key provision of the legislation affects previous PPP loan recipients. Under the prior rules, the Economic Injury Disaster Loans (EIDL) advance received by the PPP recipient was netted from the forgivable portion of the loan. The new legislation repeals that required reduction. The Small Business Administration (SBA) will issue rules on how this will be handled for prior borrowers who received loan forgiveness with this reduction.

#### **PPP Borrowers Necessity Test**

Just like its predecessor, this new PPP loan requires the borrower to attest to the business necessity of the loan, which is referred to as the “necessity test” requirement. General guidelines provide the loan should be necessary for the ongoing operation of the business. Although still not clearly defined, many experts caution applicants to carefully consider this “necessity test” requirement and consult with their CPA and legal counsel.

## PPP Qualified Expenses

The new legislation expanded the qualified expense list to include:

- **Covered Operations Expenditure:** Payment for software and cloud services necessary for HR payroll and expenses, facilitating business operations, accounting for expenses, and product or service delivery
- **Covered Supplier Cost:** Supply expenses required to fulfill a contract made prior to the covered loan period
- **Covered Worker Protection Costs:** Operating or capital expenditures required to comply with guidelines from the Department of Health and Human Services, the Centers for Disease Control and Prevention, the Occupational Safety and Health Administration, or state or local government beginning March 1, 2020, and ending when the national emergency is declared over by the president
- **Covered Property Damage Expense:** Out-of-pocket expenses to cover property damage not covered by insurance when due to public disturbances
- **Payroll Costs:** Employer payments for group life, disability, vision, and dental insurance payments

Previous guidelines also include the following qualified expenses:

- Payroll costs, such as salary, wages, commissions, or tips
- Payments for vacation, parental, family, medical, or sick leave
- Payments for group health care benefits, including insurance premiums
- Payments for retirement benefits
- Employee state or local payroll taxes
- Mortgage loan interest (excluding prepayment)
- Utilities
- Rent, including some equipment rental costs

## EIDL Targeted Loan Program

The legislation directs that future EIDL processing prioritize businesses that:

1. Are located in lower income communities
2. Employ no more than 300 employees
3. Suffered a greater than 30 percent economic loss

Borrowers under the EIDL program are required to provide documentation to the SBA of how the funds were expended 90 days after the loan is repaid. This program is also subject to release of borrower information under the Freedom of Information Act.

## What Expenses Can an EIDL Cover?

Loan proceeds can be used to pay for the following eligible costs (this list is not all inclusive):

- Payroll costs, including paid sick leave for employees unable to work due to COVID-19
- Principal and interest on mortgage payments
- Rent
- Increased materials costs due to supply chain disruption

**Please note:** You may *not* use an EIDL to pay the same expenses previously paid by a PPP loan. Many experts suggest that small businesses meeting the requirements should apply for PPP loans to cover payroll costs (due to the availability of loan forgiveness) and use EIDL proceeds for other needs. EIDL proceeds may not be used to refinance existing indebtedness.

**Is There a Loan Forgiveness Provision?**

Unlike the PPP, there is no loan forgiveness provision for EIDLs. Please contact the SBA for the latest program borrowing limits and loan terms.

**EIDL Advance**

Businesses suffering a substantial economic loss may apply for an EIDL advance that does not need to be repaid. The advance amount and availability may be up to \$1,000 per employee, subject to a maximum advance limit of \$10,000.

**What Are the General Application Requirements for These Programs?**

You apply for a PPP loan directly with your bank or other authorized lenders. The institution should provide specific guidance on its process for this new PPP lending program. You [can apply for an EIDL](#) directly on the SBA's website.

**Additional Information**

Additional information on PPP loans and EIDLs can be obtained from the [SBA's website](#). You may also be able to receive guidance through [SCORE](#) or other professional business associations.

Further guidance is expected from the Treasury, IRS, and SBA in the coming weeks.

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