

# PPP 2.0 Changes to Prioritize Underserved Small Businesses

## Corporate Alert

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President Biden has announced changes to the Paycheck Protection Program 2.0 (PPP) designed to direct more funding to women-owned and minority-owned businesses as well as low- and moderate-income, rural, and other underserved communities that have so far received a disproportionately small share of the relief money.

The Small Business Administration (SBA) announced the following changes:

- **The SBA will accept PPP loan applications only from businesses and nonprofits with fewer than 20 employees during a 14-day period, the last day of which is March 9, 2021.**

The 14-day exclusive window period, which ends on Tuesday, March 9, 2021, at 5:00 p.m. Eastern Time, will allow lenders to focus on the smallest of businesses that do not have relationships with banks, many of which are thought to be disproportionately women- or minority-owned businesses. Businesses and nonprofits with fewer than 20 employees (Qualified Enterprises) can be matched with a participating PPP lender [here](#).

During this exclusive period, a Qualified Enterprise that has not previously received a PPP loan may apply for a first-draw loan; or if a Qualified Enterprise already received a first-draw PPP loan, it may apply for a second-draw PPP loan if it experienced a 25 percent reduction in its gross receipts for a single calendar quarter in 2020 compared with the same calendar quarter for 2019. In addition, an applicant for a second-draw PPP loan must have exhausted the proceeds of its first-draw loan and have applied for forgiveness before the second-draw loan can be disbursed.

A Qualified Enterprise with an average monthly payroll of \$60,000 or less may apply for a PPP loan of \$150,000 using the streamlined one-page loan application. Unlike other PPP loan applicants, a Qualified Enterprise seeking a PPP loan of \$150,000 or less does not need to provide proof of the 25 percent gross receipts reduction. While such a Qualified Enterprise must keep records substantiating the required gross receipts reduction in the event the SBA later requests proof of the reduction, when seeking forgiveness of a PPP loan of \$150,000 or less, a Qualified Enterprise may complete a single-page loan forgiveness application in which the applicant certifies as to the 25 percent reduction of gross receipts but does not need to submit proof of the required reduction.

Beginning March 10, 2021, the SBA will accept PPP loan applications from all eligible businesses—that is, generally any business with fewer than 500 employees for a first-draw PPP loan, and any business that already received a PPP loan can apply for a second-draw PPP loan if it has fewer than 300 employees, experienced a 25 percent reduction in its gross receipts for a single calendar quarter in 2020 compared with the same calendar quarter for 2019, and has exhausted its first-draw PPP

loan proceeds and applied for loan forgiveness before the second-draw PPP loan is disbursed.

- **A revised loan formula for the self-employed, sole proprietorships, and independent contractors that have no employees other than their owners is based on gross income rather than net income.**

The PPP loan formula will be revised to allow unprofitable businesses to qualify for PPP loans and allow many applicants to collect larger loans. Previously, the size of PPP loans for the self-employed, sole proprietorships, and independent contractors (collectively, Sole Proprietorships) was based on the net profits they reported on their annual taxes, which disqualified unprofitable businesses and also limited the size of the loans for many business owners who report as little taxable income as possible. The total amount of a PPP loan available to Sole Proprietorships is 2.5 times (or 3.5 times for restaurants and other hospitality businesses) the average monthly profit, up to \$100,000 annualized. As such, the maximum PPP loan would be \$20,833 (\$100,000 divided by 12 months and multiplied by 2.5).

It is anticipated that this change will be applied retroactively so that Sole Proprietorships that received a PPP loan last year will be able to receive an increase in the amount of that loan based on gross income rather than net income numbers. However, the SBA must provide further rules and guidance to implement the change from net income to gross income. It is widely anticipated that the SBA will provide such additional guidance early next week. Accordingly, Sole Proprietorships seeking a second-draw PPP loan or an increase in the amount of a 2020 PPP loan would benefit from waiting until after the SBA guidance is issued to submit PPP loan applications.

- **An exclusionary restriction on PPP access for small-business owners with prior non-fraud felony convictions is eliminated, consistent with a bipartisan congressional proposal.**
- **PPP access restrictions on small-business owners who have struggled to make federal student loan payments is eliminated through the removal of federal student loan debt delinquency and default as disqualifiers to participating in the PPP.**
- **Clarifying that noncitizen small-business owners who are lawful U.S. residents may use an Individual Taxpayer Identification Number (ITIN) to apply for a PPP loan ensures access.**

In the case of the three changes above, the SBA is expected to provide additional guidance regarding how these enhancements will be effectuated. Businesses seeking to take advantage of these enhancements should act only after the SBA issues its guidance, which is expected to occur early next week.

McCarter can assist you with determining whether you are eligible for a PPP loan, completing the loan application, gathering the documentation necessary to provide to the lender after the application has been submitted, and maximizing loan forgiveness.