

PAYCHECK PROTECTION PROGRAM: ROUND III

Sreedhar Upendram, Assistant Professor, Department of Agricultural and Resource Economics
 Charles Martinez, Assistant Professor, Department of Agricultural and Resource Economics
 Alicia Rihn, Assistant Professor, Department of Agricultural and Resource Economics
 Kimberly Jensen, Professor, Department of Agricultural and Resource Economics
 S. Aaron Smith, Associate Professor, Department of Agricultural and Resource Economics

Introduction

The Paycheck Protection Program (PPP) was established by the Coronavirus Aid, Relief and Economic Security Act (CARES Act) and implemented by the Small Business Administration, with the support of the U.S. Department of Treasury. The Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act) was signed into law on December 27, 2020, by President Trump to provide continued assistance to small businesses and individuals affected by the COVID-19 pandemic. The Economic Aid Act allocated \$284 billion to support small business owners and their workforce due to the current economic disruption caused by COVID-19. Small businesses affected by the Coronavirus (COVID-19) are eligible to apply for 100 percent federally guaranteed Small Business Administration (SBA) loans to cover payroll-associated expenses through the PPP program. Both first-time (first draw) or second-time (second draw) small businesses are encouraged to apply for the PPP funds, if they meet certain conditions.

Some of the salient features of the Paycheck Protection Program include:

1. First-draw applications can be filed with community financial institutions starting January 11, 2021.
2. Second-draw applications can be filed with community financial institutions starting January 13, 2021.
3. The PPP program for all participating lenders will remain open until March 31, 2021.
4. Set-aside funds have been allocated for a) new and smaller borrowers, b) borrowers in low- and moderate-income communities, and c) community and small lenders, including:
 - \$15 billion in set-aside funds across first- and second-draw PPP loans for lending by community financial institutions;
 - \$15 billion in set-aside funds across first- and second-draw PPP loans for lending by Insured Depository Institutions, Credit Unions and Farm Credit System Institutions with consolidated assets of less than \$10 billion;
 - \$35 billion in set-aside funds for new first-draw PPP loan borrowers; and
 - \$15 billion for first-draw and \$25 billion for second-draw PPP loans for borrowers with a maximum of 10 employees or for loans less than \$250,000 to borrowers in low- or moderate-income neighborhoods. At least 25 percent of each of the set-asides will go to each one of the groups.

Eligibility

First-draw PPP loans for businesses that were in operation on February 15, 2020, are eligible if:

- A small business as defined by the applicable standards set forth by the SBA in section 13 C.F.R. 121.201 for the firm's industry, or under the SBA alternative standard, an independent contractor, a self-employed individual, a 501(c)(3) organization, a tribal concern, a housing cooperative, news organization or another type of entity provided for by PPP rules.
- Small businesses are eligible for a PPP loan up to \$10 million if they have 500 or fewer employees. These firms include nonprofits, veterans' organizations, churches, tribal concerns, self-employed individuals, sole proprietorships and independent contractors.
- Small businesses with more than 500 employees are eligible to apply in certain industries, including businesses with a NAICS Code that begins with 72 (*Accommodation and Food Services Sector*).
- Eligible news organizations with NAICS code 511110 or 5151 businesses or nonprofit public broadcasting entities with no more than 500 employees per physical location.
- 501(c)(6) organizations such as business leagues, chambers of commerce, visitors' bureaus and destination marketing organizations with no more than 300 employees. The lobbying activities must comprise no more than 15 percent of receipts and have no more than \$1 million in costs from the most recent tax year that ended prior to February 15, 2020.

*First-draw PPP loans are **not** available for:*

- Publicly traded companies and businesses controlled either directly or indirectly by the president, vice president, head of executive departments and members of Congress (or their spouses).
- Professional sports leagues and organizations promoting or participating in a political campaign.

Second-draw PPP loans are eligible if:

- A small business as defined by the applicable standards set forth by the SBA in section 13 C.F.R. 121.201 for the industry, or under the SBA alternative standard, an independent contractor, a self-employed individual, a 501(c)(3) organization, a tribal concern, a housing cooperative, news organizations or another type of entity provided for by PPP rules.
- Small businesses are eligible for a PPP loan up to \$2 million if they have 300 or fewer employees and experienced a revenue reduction of 25 percent or higher in 2020 relative to 2019.
- Second-draw borrowers should have used the full amount of their first PPP loan on or before the expected date for the second PPP loan to be disbursed.
- The borrower must have experienced a revenue reduction of 25 percent or greater in 2020 relative to 2019. There are several ways this reduction is demonstrated, including:
 1. A borrower must calculate this revenue reduction by comparing the borrower's quarterly gross receipts for one quarter in 2020 with the borrower's gross receipts for the corresponding quarter of 2019.
 2. Tax information might be needed in certain circumstances.
 3. A borrower that did not experience a 25 percent annual decline in revenues, or that was not in operation in all four quarters of 2019, may still meet the revenue reduction requirement if the borrower can demonstrate a 25 percent reduction under one of the quarterly measurements.
- Any small business that was ineligible for the first-draw PPP loan is also ineligible for the second-draw PPP loan.
- Unlike the first-draw PPP loans, the relevant time period for calculating a borrower's payroll costs for a second-draw PPP loan is either the 12-month period prior to when the loan was made or calendar year 2019.

For Farmers and Ranchers

- The same general calculations that were used to estimate reductions for farmers and ranchers in the first-draw PPP loans also apply to second-draw PPP loans, with adjustments that:
 1. Eliminate the provision for refinancing of an Economic Injury Disaster Loan (EIDL), which does not apply to second-draw PPP loans.
 2. Apply the choice of time period when calculating a farmer's or rancher's payroll costs for second-draw PPP loans, which is consistent with other second-draw PPP loans.
 3. In calculating a farmer's or rancher's maximum loan amount, any employee payroll costs should be subtracted from the farmer's or rancher's gross income to avoid double-counting amounts that represent pay to the employees of the farmer or rancher.
- Businesses that are part of a single corporate group shall in no event receive more than \$4 million of the second-draw PPP loans in the aggregate.

Covered Period

- The covered period starts on the date elected by the borrower that is eight weeks after the date of disbursement and ends on the date that is 24 weeks after the date of disbursement.
- A small business is eligible if it was in operation on February 15, 2020, or for any 12-week period between February 15, 2019, and February 15, 2020, and either had employees on the payroll or paid independent contractors, or sole proprietorship with no employees.

Maximum Loan Amount

- First-draw applicants may receive loans up to 2.5 times the average monthly payroll costs from 2019, 2020 or the year prior to the loan but are not to exceed \$10 million.
- Second-draw applicants may receive loans up to 2.5 times the average monthly payroll costs from 2019, 2020 or the year prior to the loan but are not to exceed \$2 million.
- Second-draw applicants with NAICS code 72 (*Accommodation and Food Services*) can receive up to 3.5 times their average monthly payroll costs but are not to exceed \$2 million.

Allowable Uses/Loan Funds

PPP loan borrowers can have their first- and second-draw loans forgiven if funds were used on eligible costs, including:

- Payroll, rent, covered mortgage interest and utilities.
- Covered worker protection and facility modification expenditures (including personal protective equipment) to comply with federal health and safety guidelines for COVID-19.
- Covered property damage costs related to property damage, vandalism and looting due to public disturbances in 2020 that were not covered by insurance or other compensation.
- Expenditures to suppliers that are essential at the time of purchase to the recipient's current operations.
- Covered operating expenditures such as business software or cloud computing services; product or service delivery; processing, payment or tracking of payroll expenses; human resources; sales and billing functions; and accounting or tracking of supplies, inventory, records and expenses.

Loan Forgiveness

- To be eligible for full loan forgiveness, first-draw and second-draw PPP loan borrowers must demonstrate during the eight- to 24-week covered period following the loan disbursement that:
 1. Employee and compensation levels are maintained.
 2. The loan proceeds are spent on payroll costs and other eligible expenses.
 3. At least 60 percent of the funds are spent on payroll.
- Borrowers that receive less than \$150,000 shall receive forgiveness if they submit a certification to the lender that is not more than one page in length, including a description of the number of employees retained on the payroll, the estimated total amount of the loan spent on payroll costs and the total loan amount.

Loan Terms

The maturity for a PPP loan is five years, and the interest rate is fixed at 1 percent, with no loan fees or prepayment penalty.

How to Apply

To apply for the PPP loan, contact your local community financial institution, participating SBA approved 7(a) lenders or any participating federally insured depository institution, federally insured credit union or Farm Credit System institution.

When to Apply

- First-draw PPP applicants can apply with community financial institutions starting January 11, 2021.
- Second-draw PPP applicants can apply with community financial institutions starting January 13, 2021.
- PPP loans will be open to small businesses through all participating lenders up to March 31, 2021.

References

Interim Final Rule - Business Loan Program Temporary Changes- Paycheck Protection Program: <https://home.treasury.gov/system/files/136/PPP-IFR-Paycheck-Protection-Program-as-Amended-by-Economic-Aid-Act.pdf>

Interim Final Rule - Business Loan Program Temporary Changes - Paycheck Protection Program Second Draw Loans: <https://home.treasury.gov/system/files/136/PPP-IFR-Second-Draw-Loans.pdf>

Small Business Administration – Paycheck Protection Program: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>

Small Business Administration – Paycheck Protection Program: Guidance on Accessing Capital for Minority, Underserved, Veteran and Women-Owned Business Concerns: <https://www.sba.gov/sites/default/files/2021-01/Guidance%20on%20Accessing%20Capital%20for%20Underserved-508.pdf>

Small Business Paycheck Protection Program - U.S. Department of Treasury: <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

UT Extension Paycheck Protection Program: Round I Fact Sheet: <https://extension.tennessee.edu/publications/Documents/D65-A.pdf>

UT Extension Paycheck Protection Program: Round II Fact Sheet: <https://extension.tennessee.edu/publications/Documents/D65-B.pdf>

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