



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Further Clarification on Paycheck Protection Program (“PPP”) – Borrowers Taking Additional Money from a First Draw Loan

Under the Consolidated Appropriations Act (“CAA”) enacted on December 27, 2020, the PPP was extended and expanded. See our overview article [here](#) and our article on the Reopening of the PPP Portal [here](#).

The Small Business Administration (“SBA”) issued a Procedural Notice CONTROL NO.: 5000-20076 on January 13, 2021 to provide guidance regarding the procedures for such reapplications or requests for increases for a First Draw PPP Loan that was approved on or before August 8, 2020. The Notice states that lenders may approve increases on First Draw PPP Loans starting on January 25, 2021. The Notice also identifies three potential scenarios where a Borrower may request additional First Draw PPP loan funds and how each one must be handled.

1. Where PPP Borrower Returned the Entire First Draw PPP Loan Before December 27, 2020

IF: (a) an eligible borrower received a First Draw PPP Loan on or before August 8, 2020, (b) the borrower fully repaid (or returned) the loan; (c) its lender reported to SBA before December 27, 2020 that the borrower fully repaid the loan, and (d) SBA has not remitted a forgiveness payment to the lender on that loan, THEN the borrower may reapply for a new First Draw PPP Loan up to an amount the borrower is eligible under current PPP rules (see our previous articles).

All reapplications are subject to the availability of funds. The lender may have reported the borrower’s original First Draw PPP loan to the SBA as either “cancelled” or “paid in full.” If the lender had reported the loan as “paid in full” when the borrower returned the full amount of the loan prior to December 27, 2020, the lender must now change the loan status to “cancelled” before the borrower can reapply. If the First Draw PPP Loan is reported as “cancelled,” the borrower may in good faith make the certification on the PPP Borrower Application Form revised January 8, 2021 ([SBA Form 2483](#)) that “the Applicant has not and will not receive another loan under the Paycheck Protection Program, Section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).” In this circumstance, the borrower may reapply for a new First Draw PPP Loan with any participating PPP Lender.

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2. Where Borrower Returned Part but Not All of its First PPP Loan Before December 27, 2020

IF: (a) an eligible borrower repaid (or returned) part of its First Draw PPP Loan on or before August 8, 2020, (b) its lender reported to SBA before December 27, 2020 that the borrower repaid the loan in part, and (c) SBA has not remitted a forgiveness payment to the lender on that loan, THEN that specific lender (“the Lender of Record”) may approve the borrower’s request for a loan increase and re-disburse funds equal to the difference between the amount retained by the borrower and the amount previously approved.

3. Where Borrower Didn’t Accept the Full Amount of First PPP Loan Available to Borrower

IF: (a) an eligible borrower did not accept before December 27, 2020 the full amount of a First Draw PPP Loan for which it was approved, and (b) SBA has not remitted a forgiveness payment in any amount to the lender on that loan, THEN the borrower may request an increase from its Lender of Record who may approve and disburse a loan increase under the borrower’s First Draw PPP Loan up to the amount previously approved. In addition, if the borrower did not accept any of the loan for which it was approved, the borrower may now ask for the full amount.