

*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.*

## **Reopening the Paycheck Protection Program (“PPP”) Portal: COVID Relief Round 2**

The Small Business Administration (“SBA”) and the Department of Treasury reopened the PPP Application portal on Monday, January 11, 2021 to accept applications from borrowers that are applying for their first PPP loan or for modifications to their existing PPP loan (“First Draw” PPP borrowers) and on Wednesday, January 13, 2021 to accept new applications from borrowers that previously received a PPP loan (“Second Draw” PPP borrowers). Initially, only community financial institutions will be able to make PPP loans but the PPP will open to all participating lenders shortly thereafter. See our January 7, 2021 article on changes to the PPP under the Consolidated Appropriations Act (“CAA”) [here](#).

On January 6, 2021, the SBA issued two Interim Final Rules. The first rule, [Interim Final Rule – “First Draw PPP Loans”](#), addresses new, first-time PPP loans and existing PPP loans where the loan forgiveness payment has not been remitted. Interim Final Rule – First Draw PPP Loans incorporates all the previous rules and FAQs related to PPP loans from the CARES Act dating back to April 2020. For detailed information about PPP loans and loan forgiveness, see our articles [here](#). The second rule, [Interim Final Rule – Second Draw PPP Loans](#), clarifies a few of the requirements for Second Draw PPP loans. This article summarizes both rules.

### **First Draw PPP Borrowers**

Under Interim Final Rule – First Draw PPP Loans, organizations will be eligible to apply for a First Draw PPP loan if they satisfy any of the following:

1. They received an initial PPP loan, have not applied for forgiveness prior to December 27, 2020, and returned part of the PPP funds received.
2. They received an initial PPP loan, have not applied for forgiveness prior to December 27, 2020, and did not accept the maximum PPP loan amount approved.
3. They did not apply for a PPP loan in 2020 but met the requirements to do so.

In the case of #1 and #2, the borrower will be able to apply for a First Draw PPP loan in an amount up to the difference between the amount retained and the previously approved amount. In all cases, organizations will use the new [SBA Form 2483](#) to apply.

### **Second Draw PPP Borrowers**

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Under Interim Final Rule – Second Draw PPP Loans, organizations that received an initial PPP loan may be able to apply for a Second Draw PPP loan if they meet all of the following requirements:

- Have already received a PPP loan, and have used, or will use, the full amount of the First Draw PPP loan (including any increases applied for under the new CAA) on eligible expenses on or before the expected date on which the Second Draw PPP Loan is disbursed to the borrower.
- Show a 25% reduction in revenue (excluding loans) in the first, second, third or fourth quarter of 2020 relative to the same quarter in 2019. The Interim Final Rule – Second Draw PPP Loans states a borrower that was in operation in all four quarters of 2019 experienced the required revenue reduction if it experienced a 25% or greater reduction in annual receipts in 2020 compared to 2019 and the borrower submits copies of its annual tax forms substantiating the revenue decline. This provision will allow a borrower to provide annual tax return forms to substantiate its revenue reduction.
- Employ 300 or fewer people.

The relevant time period for calculating a borrower's payroll costs for a Second Draw PPP Loan is any of the following at the borrower's discretion:

- calendar year 2019,
- calendar year 2020, or
- the "twelve-month period prior to when the loan is made."

No additional documentation is required to substantiate payroll costs if the borrower used calendar year 2019 figures to determine both its First Draw PPP loan amount and its Second Draw PPP loan amount, and uses the same the lender for both loans.

Only one Second Draw PPP loan is permitted. A Second Draw PPP loan application will not be approved if the borrower has a First Draw PPP loan under review by the SBA pursuant to PPP rules and/or information in SBA's possession indicates that the borrower may have been ineligible for the First Draw PPP loan or for the loan amount it received.

Organizations that meet the requirements to apply for a Second Draw PPP loan will use [SBA Form 2483-SD](#).