

Business Relief Opportunities in the Recent COVID-19 Bill

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Summary of December Relief Bill

- \$900 billion allocated by Congress to help individuals and businesses affected by COVID-19
- Signed into law on December 27, 2020
- \$284 billion allocated to the Paycheck Protection Program (“PPP”)
- \$15 billion in grants for “Shuttered Venue Operators” (“SVO”)
- \$25 billion in rent relief

Second Draw For PPP

Preliminary Reservation

- Assumption is your business already received a PPP loan earlier
- AND the earlier loan has already been fully spent and forgiven
- If these two assumptions are not met, there are different rules and qualification factors
- I can't cover every factor for all business in this presentation (too many)

Second Draw For PPP

- First qualification is often overlooked
- 13 CFR § 120.110 controls which businesses are generally **INELIGIBLE** for SBA loans
- Even if all other qualifications are met, if your business is included in the following list, your business is ineligible ...

Second Draw For PPP

- **Non-profit businesses (for-profit subsidiaries are eligible)**
- Financial businesses primarily engaged in the business of lending
- Passive businesses owned by developers and landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds
- Life insurance companies
- Businesses located in a foreign country
- Pyramid sale distribution plans
- Businesses deriving more than one-third of revenue from legal gambling activities
- Businesses engaged in any illegal activity
- Private clubs and businesses that limit memberships for reasons other than capacity
- Government-owned entities (except for businesses owned or controlled by a Native American tribe)
- **Businesses principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs, whether in a religious or secular setting**
- Loan packagers earning more than one third of their gross annual revenue from packaging SBA loans
- Businesses with an associate who is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude

Continued →

Second Draw For PPP

- Businesses in which the lender or CDC, or any of its associates owns an equity interest
- Businesses that present live performances of a prurient sexual nature; or derive directly or indirectly more than de minimis gross revenue through the sale of products or services, or the presentation of any depictions or displays, of a prurient sexual nature
- Unless waived by SBA for good cause, businesses that have previously defaulted on a federal loan or federally assisted financing, resulting in the federal government or any of its agencies or departments sustaining a loss in any of its programs, and businesses owned or controlled by an applicant or any of its associates which previously owned, operated, or controlled a business which defaulted on a federal loan (or guaranteed a loan which was defaulted) and caused the federal government or any of its agencies or departments to sustain a loss in any of its programs. For purposes of this section, a compromise agreement shall also be considered a loss
- Businesses primarily engaged in political or lobbying activities
- Speculative businesses (such as oil wildcatting)

Second Draw For PPP

- The new law allows the following to qualify specifically for the Second Draw of the PPP
 - Churches and religious groups are eligible
 - Housing cooperatives are eligible
 - Similar to first draw, 501(c)(3), 501(c)(19) and tribal business concerns with less than 500 employees are eligible

Second Draw For PPP

- Additional Requirements:
 - 300 or less employees
 - In operation on February 15, 2020
 - No publicly traded companies
 - Sole proprietor and independent contractor ARE eligible
 - One quarter in 2020 must have at least 25% reduction in gross receipts compared to same Q in 2019

Maximum Amount of Loan

- Basic calculation = (Very specific instruction how to calculate “average monthly employee payroll cost”) multiplied by 2.5
- Unless the business is a code 72 industry, then it is: (Very specific instruction how to calculate “average monthly employee payroll cost”) multiplied by 3.5

Code 72 – Hotel and Restaurants



NORTH
AMERICAN
INDUSTRY
CLASSIFICATION
SYSTEM

United States, 2017

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

Code 72 – Hotel and Restaurants

Sector 72--Accommodation and Food Services^T

The Sector as a Whole

The Accommodation and Food Services sector comprises establishments providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption. The sector includes both accommodation and food services establishments because the two activities are often combined at the same establishment.

Excluded from this sector are civic and social organizations; amusement and recreation parks; theaters; and other recreation or entertainment facilities providing food and beverage services.

Average Monthly Payroll Cost

- Included payroll cost:
 - all employee salary, but capped at \$100,000 per year
 - commissions
 - tips
 - vacation pay
 - all leave pay
 - contributions for group health and retirement
 - employer paid state and local taxes on compensation of employees

Average Monthly Payroll Cost

- Excluded from payroll cost:
 - any tip, commission or similar pay above \$100,000
 - payments to independent contractors
 - payments to employee whose principal residence is outside the US

Average Monthly Payroll Cost

Salary Example:

- Small C corp business has 10 employees (including owner) who are salaried
- 9 have a salary of \$36,000 per year, which is \$3,000 per month. The owner has a salary of \$72,000 per year which is \$6,000 per month
- The average monthly payroll cost is $(\$3,000 * 9) + \$6,000 = \$33,000$

Average Monthly Payroll Cost

Hourly Pay Example:

- LLC retail/restaurant business has 10 employees (not including owner) who are paid hourly
- 3 Managers get health benefits, 7 get commissions/tips
- The calculation of “average monthly payroll cost” is much more complicated.

Continued →

Average Monthly Payroll Cost

Hourly Pay Example:

- Owner of LLC, look at Line 31 of Schedule C of 1040
- For other employees, look at the four quarterly Form 941s, column 1 of line 5 (c)
- Health care costs are on line 14 of Schedule C of 1040
- Then there is some division to determine the monthly costs



**Paycheck Protection Program
Borrower Application Form Revised January 8, 2021**

OMB Control No : 3245-0407
Expiration Date: 7/31/2021

Check One: Sole Proprietor Partnership C-Corp S-Corp LLC Independent Contractor Self-Employed Individual 501(c)(3) nonprofit 501(c)(6) organization 501(c)(19) veterans organization Housing cooperative Tribal Business Other	DBA or Tradename (if applicable)	Year of Establishment (if applicable)
	Business Legal Name	NAICS Code
		Applicant (including affiliates, if applicable) Meets Size Standard (check one): <input type="checkbox"/> No more than 500 employees (or 300 employees, if applicable) <input type="checkbox"/> SBA industry size standards <input type="checkbox"/> SBA alternative size standard
Business Address (Street, City, State, Zip Code - No P.O. Box addresses allowed)	Business TIN (EIN, SSN)	Business Phone
Primary Contact		Email Address

Average Monthly Payroll:	\$	x 2.5 + EIDL (Do Not Include Any EIDL Advance) equals Loan Request Amount:	\$	Number of Employees:	
Purpose of the loan (select all that apply):	<input type="checkbox"/> Payroll Costs	<input type="checkbox"/> Rent / Mortgage Interest	<input type="checkbox"/> Utilities	<input type="checkbox"/> Covered Operations Expenditures	
	<input type="checkbox"/> Covered Property Damage	<input type="checkbox"/> Covered Supplier Costs	<input type="checkbox"/> Covered Worker Protection Expenditures	<input type="checkbox"/> Other (explain): _____	

Applicant Ownership

List all owners of 20% or more of the equity of the Applicant. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (EIN, SSN)	Address

If questions (1), (2), (5), or (6) are answered "Yes," the loan will not be approved.

Question	Yes	No
1. Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?		
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is (a) currently delinquent, or (b) has defaulted in the last 7 years and caused a loss to the government?		
3. Is the Applicant or any owner of the Applicant an owner of any other business, or have common management (including a management agreement) with any other business? If yes, list all such businesses (including their TINs if available) and describe the relationship on a separate sheet identified as addendum A.		
4. Did the Applicant receive an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.		
5. Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant presently incarcerated or, for any felony, presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction? Initial here to confirm your response to question 5 -- _____		
6. Within the last 5 years, for any felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance, or within the last year, for any other felony, has the Applicant (if an individual) or any owner of the Applicant 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; or 4) commenced any form of parole or probation (including probation before judgment)? Initial here to confirm your response to question 6 -- _____		
7. Is the United States the principal place of residence for all employees included in the Applicant's payroll calculation above?		
8. Is the Applicant a franchise?		
9. Is the franchise listed in the SBA's Franchise Directory? If yes, enter the SBA Franchise Identifier Code here: _____		

Current Application Form

Current Application Form

Average Monthly Payroll:	\$ <input type="text"/>	x 2.5 + EIDL (Do Not Include Any EIDL Advance) equals Loan Request Amount:	\$ <input type="text"/>	Number of Employees:	<input type="text"/>
Purpose of the loan (select all that apply):	<input type="checkbox"/> Payroll Costs	<input type="checkbox"/> Rent / Mortgage Interest	<input type="checkbox"/> Utilities	<input type="checkbox"/> Covered Operations Expenditures	
	<input type="checkbox"/> Covered Property Damage	<input type="checkbox"/> Covered Supplier Costs	<input type="checkbox"/> Covered Worker Protection Expenditures	<input type="checkbox"/> Other (explain): <input type="text"/>	

Current Application Form

Question	
1. Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is (a) currently delinquent, or (b) has defaulted in the last 7 years and caused a loss to the government?	
3. Is the Applicant or any owner of the Applicant an owner of any other business, or have common management (including a management agreement) with any other business? If yes, list all such businesses (including their TINs if available) and describe the relationship on a separate sheet identified as addendum A.	
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Initial here to confirm your response to question 5 →	<input type="text"/>
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Initial here to confirm your response to question 6 →	<input type="text"/>
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Allowable Use of PPP Funds

- Round 1 uses are allowed (payroll costs, cost of continuation of benefits, mortgage interest payment, rent payment, utility payment, interest on pre-COVID debt, etc.)
- Also new uses:
 - Covered operation expenditures
 - Covered supplier costs
 - Covered worker protection expenditures

Allowable Use of PPP Funds

- A covered operation expenditure is defined as “a payment for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses.”

Allowable Use of PPP Funds

- While we do not have additional clarity yet on this definition, it appears Congress understands that COVID-19 forced smaller businesses to incur new costs related to accounting, human resources, and/or general record-keeping.
- This provision appears to allow small businesses to upgrade their software and cloud computing in some important areas.

Allowable Use of PPP Funds

- A covered supplier cost is defined as “an expenditure made by an entity to a supplier of goods for the supply of goods that” are essential to the business operation or that is made pursuant to a contract, order or purchase order. Of interest, this specifically applies to “perishable goods.” For example, restaurants may have taken large losses ordering perishable goods that the business was unable to use.

Allowable Use of PPP Funds

- As of now, it would appear to cover any such losses that occurred during the covered period, and, more importantly, before the covered period. The covered period begins on the date of the origination of the loan and ends at a date to be chosen by the loan applicant that is at least eight weeks after the date of origination and no more than 24 weeks after the date of origination.

Allowable Use of PPP Funds

A covered worker protection expenditure is any expense to the business related to compliance with requirements established by health groups, including:

- a drive-through window
- an indoor air ventilation, air pressure, or air filtration system
- an outdoor air ventilation, air pressure, or air filtration system
- an onsite or offsite health screening capability
- an expansion of additional indoor, outdoor, or combined business space
- a physical barrier such as a sneeze guard, and
- additional miscellaneous items such as personal protective equipment

Forgiveness

- New formula to determine how much of the loan is forgivable
- In a very basic sense, 60% must be used on employee payroll



**Paycheck Protection Program
Loan Forgiveness Application Form 3508 Revised January 19, 2021**

OMB Control No.: 3245-0407
Expiration Date: 7/31/2021

PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")		DBA or Tradename, if applicable	
Business Address	NAICS Code	Business TIN (EIN, SSN)	Business Phone
		() -	
		Primary Contact	E-mail Address

First Draw PPP Loan **Second Draw PPP Loan** (check one)

SBA PPP Loan Number: _____ **Lender PPP Loan Number:** _____

PPP Loan Amount: _____ **PPP Loan Disbursement Date:** _____

Employees at Time of Loan Application: _____ **Employees at Time of Forgiveness Application:** _____

Covered Period: _____ to _____

If Borrower (Together with Affiliates, if Applicable) Received First Draw PPP Loans of \$2 Million or More or Second Draw PPP Loans of \$2 Million or More, check here:

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10): _____

Line 2. Business Mortgage Interest Payments: _____

Line 3. Business Rent or Lease Payments: _____

Line 4. Business Utility Payments: _____

Line 5. Covered Operations Expenditures: _____

Line 6. Covered Property Damage Costs: _____

Line 7. Covered Supplier Costs: _____

Line 8. Covered Worker Protection Expenditures: _____

Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions

Line 9. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3): _____

Line 10. Sum the amounts on lines 1 through 8, then subtract the amount entered in line 9. _____

Line 11. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13): _____

Potential Forgiveness Amounts

Line 12. Modified Total (multiply line 10 by line 11): _____

Line 13. PPP Loan Amount: _____

Line 14. Payroll Cost 60% Requirement (divide line 1 by 0.60): _____

Forgiveness Amount

Line 15. Forgiveness Amount (enter the smallest of lines 12, 13, and 14): _____

New Forgiveness Form

Economic Injury Disaster Loan

- Another option for money, but this must be paid back
- To avoid confusion, there was an EIDL advance, there is a targeted EIDL advance, and there is a loan
- The initial \$10,000 advance is no longer available
- The targeted EIDL is available, but limited
- The loan terms are great:
 - 30 years, 3.75% interest, one-year deferred payment (if you want)

Economic Injury Disaster Loan

- How much? No clear answer - Depends on your actual economic loss
- The \$2,000,000 maximum has been reduced to \$150,000
- How to Apply? Easy - <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/covid-19-economic-injury-disaster-loans>
- Click on apply here under the loan section

Shuttered Venue Operator Grant

- \$15 billion total, with \$2 billion set aside for venues with fewer than 50 full-time employees
- In general, theaters, museums, zoos and live performance venues that saw 25 percent reduction in revenue are eligible
- Applicant must have been in operation on February 29, 2020
- Applicant must not have received a Second Draw PPP loan
- This may seem rather broad but it is not.

Shuttered Venue Operator Grant

- Eligible SVOs are:
 - Live Venue Operators or promoters
 - Theatrical producers
 - Live performing arts operators
 - Certain museum, zoos and aquariums
 - Motion picture theater operators
 - Talent representatives, and
 - Each business entity owned by an eligible entity that also meets these requirements

Shuttered Venue Operator Grant

- More importantly, each of the eligible SVOs on the previous slide have very specific definitions
- One particular requirement in some of the definitions is “not less than 70% of the earned revenue is generated through (the specifics of the definition).”
- Look at Live Venue Operator definition as example:

Shuttered Venue Operator Grant

- What if the SVO has zero earned revenue in 2019?
- That SVO is ineligible because:
- An SVO is only eligible IF the SVO had gross earned revenue during at least one quarter of 2019 that demonstrates not less than a 25% reduction from the gross earned revenue during the same quarter of 2019.

Shuttered Venue Operator Grant

Certain characteristics will automatically exclude an applicant:

- If SVO has, or is owned by an entity that has securities listed on a national securities exchange
- If SVO has 10 percent of gross revenue from federal funding during 2019

Shuttered Venue Operator Grant

Exclusions continued:

- If the owner of SVO has two of the following:
 - owns venues in more than 1 country
 - owns venues in more than 10 states
 - employed more than 500 employees as of 2/29/2020
- If the venue presents live performances of a prurient sexual nature or has more than a de minimis gross revenue from the sale of products, or the presentation of depictions or displays of a prurient sexual nature

Shuttered Venue Operator Grant

Maximum Amount of Grant

- If the SVO was in operation on 1/1/2019, it may apply for an amount equal to 45% of the gross earned revenue for 2019
- If the SVO was not in operation on 1/1/2019, then the formula is: the average monthly gross earned revenue for each full month of operation in 2019 multiplied by 6, but no higher than \$10,000,000

Shuttered Venue Operator Grant

Shuttered Venue Operators Grants - FAQ

Effective Jan 27, 2021

Frequently asked questions about the Shuttered Venue Operators Grant (SVOG) program

Shuttered Venue Operator Grant

3. Is an entity that was not in business in 2019 but fully operational on Feb. 29, 2020 eligible to apply?

Yes, if an entity was not in business during 2019 but was fully operational on Feb. 29, 2020, it is eligible to apply if it can show the required level of revenue loss. In situations like this, the SBA will use an alternative method for demonstrating revenue loss based on the approach the Agency is using

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with the PPP. Firms not in operation in 2019 may qualify for an SVOG if their gross earned revenues for the second, third, or fourth quarter of 2020 demonstrate a reduction of not less than 25% from their gross earned revenues from the first quarter of 2020.

Shuttered Venue Operator Grant

Unique Timing for Applications

- This hasn't begun yet
- Once it does, during the first 14 days, grants will only be given to those SVOs whose 4/1/2020 to 12/31/2020 revenue is not more than 10% of the same period in 2019
- During the next 14 days, grants will only be given to those SVOs whose 4/1/2020 to 12/31/2020 revenue is not more than 30% of the same period of 2019
- After the first 28 days, the remaining SVOs can get grants
- If there is still money left, those SVOs that suffered a 70% loss can get supplemental funding equal to 50% of the first application

Shuttered Venue Operator Grant

The Grant can be used for the following:

- payroll costs
- rent
- utility payments
- interest on mortgage
- interest on debt incurred prior to 2/15/2020
- worker protection expenditures
- payments to independent contractors as reported on Form-1099 MISC not to exceed \$100,000
- certain other specific business expenses

Emergency Rent Arrears Program

- \$25 billion allocated to Emergency Rental Relief
- The money was given to the Department of the Treasury, which then demanded that state and local jurisdictions apply by January 12, 2021 for funds
- The local jurisdiction could be a city or county, but it must have a population above 200,000. Madison County qualified and applied

ERAP

- Madison County will have an estimated \$7,800,000 available for rent relief
- This new relief bill expressly allows Landlords to apply for the renter
- How? This is still in the works, but it will be a form the Landlord can fill out with consent from the renter

ERAP

11 (f) APPLICATION FOR ASSISTANCE BY LANDLORDS
12 AND OWNERS.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 nothing in this section shall preclude a landlord or
15 owner of a residential dwelling from—

16 (A) assisting a renter of such dwelling in
17 applying for assistance from a payment made
18 under this section; or

19 (B) applying for such assistance on behalf
20 of a renter of such dwelling.

Landlord Relief Act

- I spoke with Andrew Esping, Program Coordinator for the Madison County Community & Economic Development department.
- He is working on finalizing a new form for tenants and landlords to apply for this relief. He is considering having each municipality staff the processing of applications.
- Past Rent and 3 months of future rent is possible under the new law.

What Is Coming Next?

- President Biden is proposing \$1.9 trillion in new relief
- Changes are highly likely
- For now, the proposal will include additional PPP funding, a new small business grant fund, and another \$25 billion in rent assistance.

Questions?



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