



# NEW COVID RELIEF ACT – DECEMBER 2020

## HIGHLIGHTS FOR NONPROFITS

### PPP LOAN PROVISIONS

**You are now permitted to apply for a second loan (PPPL2). Eligibility criteria are:**

1. You have used, or will use, the full amount of PPPL1 on eligible expenditures. You do not need to have applied for forgiveness.
2. Employment of not more than 300 employees.
3. Can show that one calendar quarter in 2020 had gross receipts that were at least 25% lower than gross receipts for the same quarter in 2019.

**NOTE A: For loans of not more than \$150,000, you will not need to prove the revenue reduction at time of application. However, you will need to substantiate this when you apply for forgiveness.**

**NOTE B: Whatever your loan size may be, to speed up your application for PPPL2 you should determine now whether you can satisfy the 25% year-over-year quarterly gross receipts reduction of at least 25%.**

### First-time applicants & other eligibility notes

Eligible organizations now include housing cooperatives, destination marketing organizations, certain 501(c)6 entities and certain news organizations.

Ineligible organizations include those not in operation on 2/15/20, publicly traded companies, and businesses that receive a shuttered-venue-operator grant (see below).

### How is the amount of the loan determined?

The maximum amount of loan available will be determined in the same manner as for PPPL1, essentially 2.5 times the average gross monthly payroll for the year prior to the application, or for calendar year 2019, with a cap of \$2 million. The multiplier factor is 3.5 for entities in the Accommodation and Food Service



industries, but cap is unchanged. There are different calculations for seasonal employers, and for those not in business for 12 months prior to 2/15/20.

**NOTE C:** As was the case for PPPL1 in the first round last March/April, speed of application and banker processing may be critical in the event that funding is insufficient to meet demand. If you used average monthly payroll costs for calendar 2019 for your PPPL1 application, it may speed things up to use the same calculation for PPPL2.

**NOTE D:** Bank PPPL2 application portals are not open yet (if you are a PPPL1 recipient your bank should have notified you of their intentions by now). However, it may be helpful to notify your bank’s designated contact that you intend to apply.

### **Covered Period**

The borrower may elect a “covered period” for the purpose of computing eligible expenditures that ends at any time between 8 and 24 weeks from date of loan origination (receipt of loan proceeds).

### **Expanded definition of “eligible expenditures”**

Added to the initial definition of eligible expenditures (payroll and certain benefits, rent/leases, mortgage interest, utilities) are the following:

- Covered operations expenditures. Payment for any software, cloud computing, and other human resources and accounting needs.
- Covered property damage costs. Costs related to property damage due to public disturbances that occurred during 2020 that are not covered by insurance.



- Covered supplier costs. Expenditures to a supplier pursuant to a contract, purchase order, or order for goods in effect prior to taking out the loan that are essential to the recipient's operations at the time at which the expenditure was made. Supplier costs of perishable goods can be made before or during the life of the loan.
- Covered worker protection expenditure. Personal protective equipment and adaptive investments to help a loan recipient comply with federal health and safety guidelines or any equivalent State and local guidance related to COVID-19 during the period between March 1, 2020, and the end of the national emergency declaration.
- Group benefit plans expanded. In addition to health plans, these now include group life, disability, vision and dental plans.

**NOTE E: Eligible expenditures on payroll and benefits must still amount to at least 60% of total eligible expenditures claimed or the amount of forgiveness will be reduced. Annualized individual employee base compensation is still limited to \$100,000.**

**NOTE F: The expanded definition of eligible expenditures applies retroactively to PPPL1, unless that loan has already been forgiven.**

## **Loan Forgiveness**

Simplified Application – For loans not greater than \$150,000, there will be a one-page forgiveness application where the borrower

- describes the number of employees they were able to retain as a result of the PPPL;
- estimates the total amount of the loan spent on payroll costs;
- states the total amount of PPPL received;
- attests to the accuracy of the information provided and that they have complied with the requirements of the PPPL; and
- submit proof of year-over-year gross receipts reduction of at least 25% if you are a second-time applicant.



**Note G: Borrowers must retain employment records for 4 years, and other records for 3 years, from date of form submission.**

EID “nonrepayable” advances – Whether you already received an advance, or will receive an advance, **these will not be deducted from the forgivable amount of PPPL.** For those who already applied for forgiveness and had an EID advance subtracted from the amount of loan forgiven, the banks will be instructed to correct that transaction retroactively.

FTE Maintenance, Safe Harbor, and > 25% Employee Wage Reduction – These rules remain unchanged and continue to apply as before, except that flexibility is provided to the SBA for extending the dates for achieving Safe Harbor.

Deadline to apply for forgiveness – Technically, a borrower would have until the maturity date of their loan to apply for forgiveness. However, if the application for forgiveness is not submitted within 10 months of the end of the loan’s “covered period”, loan payments will cease to be deferred at that time.

## **ECONOMIC INJURY DISASTER LOAN (EIDL) ADVANCES/GRANTS**

This program has been funded with an additional \$20 Billion to provide non-repayable emergency grant support of up to \$10,000 to eligible entities.

### Among Other Types of Qualifying Entities:

- NPO’s with 300 or fewer employees,
- In operation at January 31, 2020,
- Located in low-income communities,
- Have suffered an economic loss greater than 30%,
- Directly affected by Covid-19

### Definition of Economic Loss:

“Amount by which the gross receipts of the covered entity declined during an 8-week period between March 2, 2020, and December 17, 2021, relative to a



comparable 8-week period immediately preceding March 2, 2020, or during 2019.”

#### Prior Applicants:

If you applied for the grant previously but received less than \$10,000, or your application was declined due to lack of funding, you may be eligible to re-apply for the difference between \$10,000 and your previous award. If you are eligible to re-apply the Small Business Administration (SBA) is required to notify you, although the manner of notification is not yet known.

### **GRANTS FOR SHUTTERED-VENUE OPERATORS**

The bill authorizes \$15 billion for the SBA to make grants to eligible live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators, or talent representatives **who demonstrate a 25 percent reduction in revenues.**

There is a set-aside of \$2 billion for eligible entities that employ no more than 50 employees.

The SBA may make an initial grant of up to \$10 million to an eligible person or entity and a supplemental grant that is equal to 50 percent of the initial grant.

During the first 14 days of the program, grants will only be awarded to entities showing a 90% or greater revenue loss. During the next 14 days, awards will be made to those showing at least a 70% revenue reduction. All other eligible entities will be considered for awards after the first 28 days.

Such grants shall be used for specified expenses such as payroll costs, rent, utilities, and personal protective equipment.

Requires the administrator to conduct increased oversight of eligible persons and entities receiving these grants.

**If you receive one of these grants you will not be eligible for a PPP Loan.**



## **FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) PAYROLL TAX CREDITS**

Federal employer payroll tax credits for mandatory payments by private employers made to employees who are off work for Covid-related causes were set to expire on December 31, 2020. These benefits have been extended on a non-mandatory basis through March 31, 2021, although there has been no increase to the original limitations on such payments. Note that this bill **does not extend** the benefits under the FFCRA for the Emergency Family Medical Leave and Medical Leave Expansion Act (EFMLEA) or the Emergency Paid Sick Leave Act (EPSLA). More detail may be found at the following link:

<https://www.natlawreview.com/article/covid-19-relief-bill-what-employers-need-to-know-heading-2021>

## **OTHER PROVISIONS**

There are other program initiatives of significance affecting healthcare, federal unemployment benefits, individual rebates, agriculture, transportation, broadband internet access and infrastructure, telehealth and more. You can find a more detailed summary at this link:

<https://www.natlawreview.com/article/federal-covid-relief-bill-passed-congress-december-2020>

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**May 2021 Be Kind & Generous!**