

Paycheck Protection Program (PPP) Update: Biden Administration Announces Changes to PPP to Further Target Small Businesses

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On Monday, February 22, 2021, the Biden administration announced several reforms to the Paycheck Protection Program (PPP), the main U.S. COVID-19 aid program for small businesses, to further ensure equitable access for the smallest businesses and those that have been left behind in previous rounds of the PPP.

As of 9:00 AM, Wednesday, February 24, 2021, the Biden administration instructed the Small Business Administration (SBA) to implement a two-week exclusive period during which only businesses with fewer than 20 employees, included self-employed individuals, are eligible to apply for forgivable PPP loans. Small businesses with fewer than 20 employees represent nearly 98% of all small businesses in the United States. The exclusive access period will allow those smaller businesses, which typically struggle more than larger businesses to collect the necessary materials to successfully apply, to have unfettered support from lenders to ensure they can take maximum advantage of the program.

Small businesses with more than 20 employees will still have time to apply for the PPP upon expiration of the exclusive period on March 9, 2021 as the PPP application window does not close until March 31, 2021. The Biden administration has not asked Congress to extend the expiration date but has stated that it will be closely monitoring the flow of PPP funds to determine whether an extension will be necessary.

Additionally, the Biden administration announced that there will be changes to the loan calculation formula forthcoming in future SBA guidance so that self-employed workers, including independent contractors and sole proprietors, will be eligible to obtain larger PPP loan amounts. The calculation framework will be changed to match the approach used by the SBA to allow small farmers and

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ranchers to receive aid.

In prior rounds of the PPP, self-employed workers were structurally excluded, left behind, or were approved for loan amounts as small as \$1 under the current calculation framework. Self-employed applicants will now be able to use their gross income listed on their tax returns in lieu of their net profit to calculate their maximum eligible loan amount, which should alleviate the issues experienced under the previous calculation framework. Also, the Biden administration announced that it would be establishing a \$1 billion set aside for businesses in this category located in low and moderate income areas.

The Biden administration also called on the SBA to work with the Departments of the Treasury and Education to remove the federal loan delinquency restriction as well as the non-financial fraud felony restriction currently in place for PPP loans. Under the current PPP eligibility framework, small businesses with at least 20% ownership by an individual who is delinquent on a federal loan within the last 7 years, including federal student loans, or has been arrested or convicted of a non-financial fraud felony within the previous year are ineligible to apply for the PPP.

Finally, the Biden administration stated that it would work closely with the SBA to ensure that non-U.S. citizens who are lawful U.S. residents are able to apply for and take advantage of the PPP. It is expected that the SBA will include language in its forthcoming guidance making clear that legal U.S. residents who are not citizens, such as Green Card holders and those present in the United States on a visa, may use their Individual Taxpayer Identification Numbers (ITNs) to qualify for COVID-related relief through the PPP.

Additionally, Congress has recently taken up the Biden administration's proposed \$1.9 trillion American Rescue Plan (ARP) which would add another \$7 billion to the PPP for small businesses amongst other relief efforts. A divided U.S. House of Representatives passed the bill along partisan lines on Saturday, February 27, 2021, and sent it over to the U.S. Senate where it is expected to face a much stronger opposition.

Bailey Glasser stands ready to assist you with any questions or concerns you may have regarding your current PPP loan or applying for a new or second PPP loan, as well as any questions or concerns you may have regarding the PPP generally. We will continue to monitor the PPP and will provide updates accordingly. Please contact Bailey Glasser directly here.

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