

WEBSTER, CHAMBERLAIN & BEAN, LLP | NONPROFIT ALERT

APPLICANTS MAY BEGIN APPLYING FOR PAYMENT PROTECTION PROGRAM LOANS

Starting this week, applicants may apply for “first draw” and “second draw” loans from the U.S. Small Business Administration’s (“SBA”) Payment Protection Program (“PPP”). As WC&B detailed in an earlier [nonprofit alert](#), housing cooperatives, nonprofit public broadcasting entities, nonprofit destination marketing organizations, §501(c)(6), and §501(c)(3) nonprofit organizations are eligible for funding.

How and When to Apply

Until January 13, SBA will be accepting first draw PPP loan applications from Community Development Financial Institutions, Minority Depository Institutions, Certified Development Companies, and Microloan Intermediaries (“CFIs”). Beginning January 13, certain businesses which have previously received a PPP loan may apply through participating CFIs. Shortly thereafter (current estimates are January 18), applicants will be able to apply through any participating federally insured depository institution, federally insured credit union, eligible non-bank lender, or Farm Credit System institution.

First draw borrowers should use this [form](#) when applying.

Second draw borrowers should use this [form](#) when applying.

Uncertainty Regarding Lobbying Definitions

While §501(c)(6) nonprofit organizations may now apply for first draw PPP loans, more clarity is needed to calculate “lobbying receipts” and “lobbying activities” activities. To be eligible, §501(c)(6) nonprofit organizations: (1) must not receive more than 15 percent of receipts from lobbying activities; and (2) the lobbying activities may not comprise more than 15 percent of the organization’s total activities.¹

Neither SBA, nor the U.S. Treasury Department has given more detailed guidance on the definition of “lobbying activities” or “receipts from lobbying” as it pertains to the PPP loan application and whether it is limited to federal lobbying activities. Moreover, §501(c)(6) nonprofit organizations often track and disclose lobbying activity using different definitions, such as under the Lobbying Disclosure Act, or the Internal Revenue Code for purposes of reporting lobbying on their IRS Form 990. SBA may simply rely on certifications of the applicant to determine eligibility in the PPP program, but more guidance on these definitions would be helpful to §501(c)(6) nonprofit organizations.

WC&B will continue to monitor these developments.

¹ The other two criteria are: (1) the cost of the lobbying activities of the organization did not exceed \$1,000,000 during the most recent tax year of the organization that ended prior to February 15, 2020; and (2) the organization employs not more than 300 employees.

Simplified Loan Application

The SBA is required to create a one-page forgiveness application for borrowers of less than \$150,000. Borrowers of \$150,000 or less who have not yet applied for loan forgiveness should wait for the simplified application, which is due to be published by January 21, 2021.

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