

CARES ACT AND SMALL BUSINESS LOANS FOR COVID-19

This article provides information related to loans and grants available to small businesses to address financial hardships due to the COVID-19 pandemic under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that was signed into law on March 27, 2020.

The table below provides answers to frequently asked questions regarding the two primary Small Business Association (SBA) loans available in response to the COVID-19 pandemic: the Payroll Protection Program Loan (PPP Loan) and the amended Economic Injury and Disaster Loan Program (EIDL Loan). Small businesses may also consider additional loan options offered by the SBA, the Federal Reserve, or their state and local governments, outlined further below.

Consult our specific [guidance on the CARES Act](#), including information on employment and tax matters.

Guidance regarding the CARES Act and PPP Loans continues to evolve as the SBA and the Department of Treasury issue new information. This article was last updated on April 7, 2020 to reflect new information from these sources.

FAQS	PAYCHECK PROTECTION PROGRAM (PPP) AMENDS THE SBA 7(A) BUSINESS LOAN PROGRAM	ECONOMIC INJURY AND DISASTER RELIEF LOAN (EIDL) AMENDS THE SBA 7(B) DISASTER ASSISTANCE PROGRAM
<p>Who is Eligible?</p>	<ul style="list-style-type: none"> Small businesses and 501(c)(3) nonprofits that have 500 employees or less (or the number of employees provided in the size standards for the business' industry under SBA guidelines) – see the "Updated Affiliate Rule" below for information about counting employees Sole proprietors, self-employed persons and individuals that operate as independent contractors Tribal business concerns and 501(c)(19) Veterans Organizations, each meeting SBA size standards Small business concerns that satisfy the statutory/regulatory definition of a small business concern under the Small Business Act <p>Note that the business must have been in existence and paying payroll and taxes on or before February 15, 2020.</p> <p>In addition, applicants must make certain good-faith certifications, including: (i) the loan is necessary to support the ongoing operations of the loan recipient; (ii) the funds will only be used to cover eligible costs (described below); (iii) the borrower has not and will not receive another loan under this program between February 15, 2020 to December 31, 2020; and (iv) information provided in the application all supporting documents are true and accurate in all respects.</p> <p>Updated "Affiliate Rule"</p> <ul style="list-style-type: none"> The number of employees counted must include all affiliates of the business (i.e., the total number of employees of the business itself, its parents, subsidiaries and other businesses under common control, with certain exceptions) <ul style="list-style-type: none"> In general, an entity is considered an affiliate where the entity "controls or has the power to control the other, or a third party (or parties) controls or has the power to control both." For additional guidance regarding "control", see the SBA's guide here. The Affiliate Rule is waived (Affiliate Rule Waiver) for: accommodation and food service businesses; franchise businesses approved on the SBA's Franchise Directory; and small businesses that receive financing through the Small Business Investment Company (SBIC) program. Under the Affiliate Rule Waiver, the 500 employee limitation is applied per location and not to the business as a whole for these entities. 	<p>In addition to businesses typically eligible under EIDL, the CARES Act expanded eligibility to the following entities with 500 employees or less:</p> <ul style="list-style-type: none"> Sole proprietorships (with or without employees) or independent contractors; Cooperatives and employee owned businesses; Employee Stock Option Plans (ESOPs); Tribal small businesses; Small business concerns and small agricultural cooperatives that meet the applicable SBA size standards; and Most private non-profits of any size (with the exception of private non-profits principally engaged in teaching, counseling, or indoctrinating religious beliefs, or primarily engaged in political/lobbying activities) <p>Note that the business must have been in existence and paying payroll and taxes on or before January 31, 2020.</p> <p>The Affiliate Rule listed in the PPP column is applicable to EIDLs, however, the Affiliate Rule Waiver is not available for EIDLs.</p> <p>In addition, (i) businesses can obtain an EIDL even if the business has access to other funding sources and (ii) business owners are not required to seek other sources of capital prior to obtaining an EIDL (per the loan amendment under the CARES Act).</p>

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Who is Eligible? (cont.)	<p>NOTE: If a private equity sponsor has “control” over the applicant business (see the definition of control for affiliate purposes above), the applicant company is considered to be affiliated with all other controlled portfolio companies of the private equity sponsor when determining the number of employees of the applicant business for eligibility purposes.</p> <p>Lawmakers and trade associations are currently requesting a reinterpretation of the Affiliate Rule related to venture- and private-equity backed companies.</p> <p>Finally, note that (i) businesses can obtain a PPP Loan even if the business has access to other funding sources and (ii) business owners are not required to seek other sources of capital prior to obtaining a PPP Loan (distinct from traditional SBA loans).</p>	<p>NOTE: businesses that receive PPP Loans cannot also receive an Economic Injury Disaster Loan or other loans through the SBA for the same purpose. If a company received an EIDL loan from January 31, 2020 through April 3, 2020 and the loan was used for payroll costs, if the company subsequently receives PPP Loan proceeds, the PPP Loan proceeds must be used to refinance the EIDL loan. If an EIDL loan was not used for payroll costs, it does not affect eligibility for a PPP Loan.</p>
What Relief is Available?	<p>The maximum amount a business can borrow is the lesser of:</p> <p>(1) the business’ average total monthly payroll costs during the one-year period before the loan is made <i>multiplied</i> by 2.5; or</p> <p>(2) \$10 million.</p> <p>Note that the payroll cost calculation for the maximum loan amount excludes payments to independent contractors or sole proprietors.</p>	<p>Loan amounts are tied to the amount of economic injury suffered. However, applicants do not submit applications for a specific amount and the SBA will review applicant’s financials in order to determine the loan amount. The maximum amount a business can borrow is \$2 million.</p>
What Can the Loan Funds be Used For?	<ul style="list-style-type: none"> • Payroll costs, including employee salaries, commissions or similar compensation (with certain exceptions listed below); • Costs of providing employees’ health care benefits, parental, family paid sick or medical leave (excluding qualified sick and family leave wages for which a credit is available under sections 7001 and 7003 of the Families First Coronavirus Response Act); and • Interest payments on preexisting mortgage obligations, rent, utilities and interest on debt obligations incurred prior to prior to February 15, 2020 • Refinancing an EIDL loan made between January 31, 2020 and April 3, 2020 • Note: at least 75% of the PPP Loan proceeds must be used for payroll costs <p>These loans cannot be used for (i) compensation of any employee or independent contractor in amounts in excess of an annual salary or amounts paid to an independent contractor or sole proprietor of \$100,000 or (ii) compensation and benefits of employees with primary residence outside the U.S. When calculating compensation for purposes of this salary cap, the exclusion of compensation in excess of \$100,000 annually only applies to cash compensation, not to non-cash benefits (e.g., employer contributions to defined-benefit or defined-contribution retirement plans; payment for the provision of employee benefits consisting of group health care coverage; and payment of state and local taxes assessed on employee compensation).</p> <p>Finally, payroll costs for purposes of the maximum loan amount, allowable uses of a PPP Loan and the amount of a loan that may be forgiven are calculated on a gross basis without subtracting or adding federal taxes imposed or withheld (e.g., the employee’s and employer’s share of Federal Insurance Contributions Act (FICA) and income taxes required to be withheld).</p>	<ul style="list-style-type: none"> • Maintaining payroll; • Paid sick leave to employees unable to work directly due to the effects of COVID-19; • Rent or mortgage payments; and • Accounts payable and increased supply chain costs due to the disaster • These loans cannot be used for business expansions, refinancing debt incurred prior the date of the disaster, growth of any kind or as a substitute for lost profits or sales.

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What are the Terms of the Loan?	<ul style="list-style-type: none"> • Availability: Until 6/30/2020 or until the allocated amount of funds to be granted runs out (on a first-come, first-served" basis) • Loan Fee: Waived • Prepayment Penalty: None • Maturity: Two years • Interest: 1% fixed • Deferrals: Able to defer payments for six months • Emergency Advances: None • Collateral: Not required • Personal Guaranty: Not required • SBA Guaranty: 100% SBA guaranty through December 31, 2020 to lenders, with that guaranty percentage returning to 75% after December 31, 2020 for loans above \$150,000 and to 85% for loans below that amount • Forgiveness: <ul style="list-style-type: none"> o Lender will forgive the portion of the PPP Loan that the borrower uses to pay payroll costs, mortgage interest, rent or utility payments only during <u>the eight-week period</u> following the loan's origination; <u>however</u>, not more than 25% of the loan forgiveness amount may be attributable to non-payroll costs o Amount of loan forgiveness is <u>reduced</u> if the borrower reduces its full-time equivalent employees over the eight-week period after receiving the loan, or if it reduces salary or wages of any employee who makes less than \$100,000 annually by more than 25%; however, if the borrower rehires those full-time employees by June 30, 2020, and restores salary levels that were reduced between February 15, 2020 and April 26, 2020, the loan forgiveness reduction will not apply o Independent contractors do <u>not</u> count as employees for purposes of a borrower's PPP Loan forgiveness calculations o Forgiven amounts will not be considered taxable income to the borrower 	<ul style="list-style-type: none"> • Availability: Until 12/31/2020 • Loan Fee: Waived • Prepayment Penalty: None • Maturity: Up to thirty years (determined on case-by-case basis) • Interest: 3.75% for businesses and 2.75% for non-profits • Deferrals: Able to defer payments for 12 months • Emergency Advances: Yes, up to \$10,000 within three days of an application – note the advance does not need to be repaid even if the loan application is denied • Collateral: Generally required for loans more than \$25,000, if available • Personal Guaranty: Required for loans of \$200,000 or more • SBA Guaranty: CARES Act does not provide any express provisions regarding the guarantee of EIDLs • Forgiveness: None (but see Emergency Advances above) <p>Note: if an applicant receives an Emergency Advance and is also approved for a PPP Loan, the Emergency Advance Amount will be reduced from the amount of the loan that is eligible for forgiveness under the PPP Loan.</p>
When are Applications Due?	Applications due by June 30, 2020 and may be submitted starting April 3, 2020 for companies and on April 10, 2020 for sole proprietors/self-employed individuals.	Applications due by December 31, 2020 .
How to Apply	Applicants must apply through a private lender. All current SBA 7(a) lenders (listed here) are automatically eligible lenders for PPP while other third party lenders must first be approved by the SBA. The application for the PPP can be found here .	Applicants can apply through the SBA's Disaster Assistance Program website directly.

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OTHER AVAILABLE LOANS	GENERAL OVERVIEW	LINK TO ADDITIONAL INFORMATION
Express Disaster Bridge Loan (SBA)	<ul style="list-style-type: none"> Allows small businesses that currently have a business relationship with an SBA Express Lender to access up to \$25,000 with less paperwork These loans are aimed to address urgent needs for cash and to “bridge the gap” while applying for or waiting for funds from an EIDL application Will be paid in full or in part by proceeds from an EIDL loan 	Program Guide
Main Street Business Lending Program (Federal Reserve)	<ul style="list-style-type: none"> Expected to be administered by the Federal Reserve “to support lending to eligible small-and-medium sized businesses, complementing efforts by the SBA.” 	Fact Sheet Issued by the Federal Reserve on April 9 Federal Reserve Press Release
For Illinois businesses, the following programs will be launched: <ul style="list-style-type: none"> Illinois Small Business Emergency Loan Fund; and the Downstate Small Business Stabilization Program 	Illinois Small Business Emergency Loan Fund <ul style="list-style-type: none"> Low interest loans up to \$50,000 from the Illinois Department of Financial and Professional Regulation (IDFPR) Only businesses located outside the City of Chicago with less than 50 workers and less than \$3M in revenue in 2019 are eligible to apply Downstate Small Business Stabilization Program <ul style="list-style-type: none"> Local governments may apply on behalf of a small business (50 employees or less) in downstate and rural counties across Illinois for grants of up to \$25,000 in working capital 	Compiled Program Information

Here are links to various resources to help you navigate your analysis of whether to apply for a PPP loan and how they will work:

[SBA Resource Hub](#)

[SBA Search Tool](#)

[PPP Application](#)

[Frequently Asked Questions](#)

[Guidance on the PPP](#)

[Loan Resources](#)