SBA Economic Injury Disaster Loans (EIDL)

CARES Act Paycheck Protection Program (PPP)

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Your guide forward
SBA’s Economic Injury Disaster Loan Basics

What businesses are eligible to apply?
SBA’s Economic Injury Disaster Loans (or working capital loans) are available to small businesses, small agricultural cooperatives, small aquaculture businesses and most private non-profit organizations.

This includes:

• Businesses directly affected by the disaster
• Businesses that offer services directly related to the businesses in the declaration
• Other businesses indirectly related to the industry that are likely to be harmed by losses in their community (Example: Manufacturer of widgets may be eligible as well as the wholesaler and retailer of the product).
Private Non-Profit Organizations
Examples of Non-Profit Organizations:

Nursing Homes, food kitchens, museums, educational facilities, senior citizen centers, daycare centers, playhouses, community centers, shelters, rescue organizations, associations, etc.

An eligible private non-profit organization is a non-governmental agency or entity that currently has:

1) An effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or

2) Satisfactory evidence from the State that the non-revenue producing organization or entity is a non-profit one organized or doing business under State law.
SBA’s Economic Injury Disaster Loan Basics

What is the criteria for a loan approval?

- **Credit History** – Applicants must have a credit history acceptable to SBA
- **Repayment** – SBA must determine that the applicant business has the ability to repay the SBA loan
- **Eligibility** – The applicant business must be physically located in the declared county and suffered working capital losses due to the declared disaster, not due to a downturn in the economy or other reasons
SBA’s Economic Injury Disaster Loan Basics

How much can I borrow?

- Eligible entities may qualify for loans up to $2 million, with $10,000 as an advance payment.
- The interest rates for this disaster are 3.75% for small businesses and 2.75% for nonprofit organizations with terms up to 30 years.
- Eligibility for these working capital loans are based on the size (must be a small business) and type of business and its financial resources.

How can I use the loan funds?

- These working capital loans may be used to pay fixed debts, payroll, accounts payable, and other bills that could have been paid had the disaster not occurred. The loans are not intended to replace lost sales or profits or for expansion.
SBA’s Economic Injury Disaster Loan Basics

What are the collateral requirements?

- Economic Injury Disaster Loans over $25,000 require collateral
- SBA takes real estate as collateral when it is available
- SBA will not decline a loan for lack of collateral, but requires borrowers to pledge what is available
What kinds of small businesses can apply?

- Hotels, recreational facilities, charter boats, manufacturers, sports vendors, owners of rental property, restaurants, retailers, souvenir shops, travel agencies, and wholesalers

What other criteria is involved?

- The applicant business must have a physical presence in the declared disaster area. An applicant’s economic presence alone in a declared area does not meet this requirement. The physical presence must be tangible and significant. Merely have a P.O. Box in the disaster area would not qualify
Ineligible Entities

- **Agriculture Enterprises** – If the primary activity of the business (including its affiliates) is as defined in Section 18(b)(1) of the Small Business Act, neither the business nor its affiliates are eligible for EIDL assistance.

- **Faith based Organizations**

- **Non-profit organizations with a political purpose**

- **Gambling Concerns** – Example: Concerns that derive more than 1/3 of their annual gross revenue from legal gambling activities.

- **Casinos & Racetracks** – Example: Businesses whose purpose for being is gambling (e.g., casinos, racetracks, poker parlors, etc.) are not eligible for EIDL assistance regardless of 1/3 criteria above.

- **Real Estate Developers** – establishments primarily engaged in subdividing real property into lots and developing it for resale on their own account.
SBA’s Working Capital Loans are Different from Other SBA Loans

- SBA’s Economic Injury Disaster Loan (EIDLs) funds come directly from the U.S. Treasury
- Applicants **do not** go through a bank to apply. They apply directly to SBA’s Disaster Assistance Program at: disasterloan.sba.gov/ela.
- There is no cost to apply
- There is no obligation to take the loan if offered
- The maximum unsecured loan amount is $25,000
- There is provision for an emergency $10,000 forgivable loan eligible to be disbursed within 3 days of application
CARES Act
Paycheck Protection Program (Sec 1102)
Loan Forgiveness (Sec 1106)
Paycheck Protection Program

Utilizes the existing 7(a) SBA program to include new forgivable loans made under the Payment Protection Program. Total of $349 billion appropriated in the CARES Act. Congress is already discussing the possibility of appropriating more funds if existing funding runs out.

Who is making the loans?

- Provided delegated authority to lenders in allowing them to determine eligibility and credit worthiness without going through SBA channels.
- SBA guarantee is increased to 100% through Dec. 31, 2020

How are banks evaluating the borrower?

- In evaluating the eligibility of a borrower for a covered loan, a lender can consider whether the borrower:
  - was in operation on February 15, 2020; and
  - had employees for whom the borrower paid salaries and payroll taxes OR paid independent contractors as reported on a Form 1099-MISC.
Paycheck Protection Program

**Employee Limit – 500 employees**

- The term employee includes individuals employed on a full-time, part-time or other basis.

- Determined on an affiliated employer which takes into account 50% ownership interests, common management and identity of business criteria.

- Waives affiliation rules for
  - The accommodation and restaurant industry
  - Franchises that are approved on the SBA's Franchise Directory and small businesses that receive financing through the Small Business Investment Company (SBIC) program

- PE owned firms and controlled groups of companies who share affiliated ownership may not be eligible. US subs with foreign parents must include foreign affiliate employees in qualifying.

- Individuals who operate as a sole proprietorship, partnership or as an independent contractor and eligible self-employed individuals eligible to receive a covered loan.
Certain industries, notably in manufacturing, are subject to a higher standard than 500 employees. To see if your business qualifies, take the NAICS code from your business tax return, compare it to the SBA Table of Size Standards, and if your NAICS code uses an employee based size standard, then compare your headcount with the listed standard. If there is no employee size standard listed, the size limit is 500 employees.

Paycheck Protection Program

Maximum Loan Amount

Beginning on February 15, 2020 and ending on June 30, 2020, the maximum loan amount is the lesser of:

- The **average total monthly payments** by the applicant for **payroll costs** incurred during the 1-year period before the date on which the loan is made **multiplied by 2.5**;
  - **Payroll costs in excess of $100,000 cannot be considered**

- Plus the outstanding loan amounts that were made beginning on January 31, 2020 and ending on the date you receive this loan, eligible to be refinanced under this loan;

- $10,000,000.

Special rules exist for seasonal employers and businesses not in existence beginning 2/15/2019 and ending on 6/20/2019

Employers accessing Paycheck Protection Loans cannot claim an employee retention payroll tax credit
Paycheck Protection Program

Maximum Loan Amount

Payroll Costs include:

- Salary, wage, commission, or similar compensation;
- Payment of cash tip or equivalent;
- Payment of vacation, parental, family, medical or sick leave;
- Allowance for dismissal or separation;
- Payment required for the provision of group health care benefits, including insurance premiums;
- Payment of any retirement benefits; or
- Payment of state or local tax assessed on the compensation of employees;

The self-employment wages of a partner, sole proprietor or independent contractor in an amount not exceeding more than $100,000 in 1 year, as prorated for the period beginning on February 15, 2020 and ending on June 30, 2020.
Maximum Loan Amount

Payroll Costs do **NOT** include:

- The compensation of an individual employee’s in excess of an annual salary of $100,000 as prorated for the period beginning on February 15, 2020 and ending on June 30, 2020;

- Taxes imposed or withheld under FICA (Social Security and Medicare), Railroad Retirement Act, and IRC Chapter 24 (income tax at source);

- Any compensation of an employee whose principal place of residence is outside the United States;

- Qualified sick leave or family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.
What can I use the loan for?

Between February 15, 2020 and ending on June 30, 2020, the eligible recipient can use the proceeds from the loan for:

- Payroll costs;
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- Employee salaries, commission, or similar compensations;
- Payments of interest on any mortgage obligation;
- Rent (including rent under a lease agreement);
- Utilities; and
- Interest on any other debt obligation that were incurred before the period.
An eligible recipient applying for a covered loan must make a good faith certification that:

- The uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
- Acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
- That the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and
- During the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.
Paycheck Protection Program

Nonrecourse
The administration has no recourse against any individual shareholder, member, or partner of an eligible recipient of a covered loan for nonpayment of any covered loan UNLESS it is used for a purpose not authorized.

No Guarantee
Between February 15, 2020 and ending on June 30, 2020, no personal guarantee is required for the covered loan AND no collateral is required for the covered loan.

No SBA Fee
Between the February 15, 2020 and ending on June 30, 2020, with respect to covered loan, the Administrator will not collect a fee.
Deferral of Payment:

Between February 15, 2020 and ending on June 30, 2020, the Administration provides complete payment deferment relief for impacted borrowers with a loan for a period of not less than 6 months and not more than 1 year.

- Includes the payment of principal, interest, and fees

An impacted borrower is an eligible receipt who is in operation on February 15, 2020 and has an application for covered loan that is approved or pending after the date of enactment.
Loan Forgiveness
An individual or entity that is eligible to receive a covered loan is eligible for forgiveness of indebtedness on that loan in an amount equal to the sum of the following costs incurred and payments made during the 8 week period beginning on the date of the origination of a covered loan:

- Payroll Costs;
- Any payment of interest on any covered mortgage obligation;
  - Any indebtedness or debt instrument incurred in the ordinary course of business that is a liability of the borrower, is a mortgage on real or personal property and was incurred before 2/15/2020;
- Any payment of a rent obligation made under a leasing agreement in force before 2/15/2020;
- Any utility payment related to the distribution of electricity, gas, water, transportation, telephone or interest access for which service began before 2/15/2020.
Loan Forgiveness

Information that must be provided to the lender:

- Documentation verifying the number of full time equivalent employees on payroll and pay rates including payroll tax filings reported to the IRS and State income, payroll, and unemployment insurance filings;

- Documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments.
Loan Forgiveness

Information that must be provided to the lender:

- Certification from a representative of the eligible recipient authorized to make such certifications that:
  - The documentation presented is true and correct; AND
  - Amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments;

- Any other documentation the administrator determines is necessary.

No eligible recipient shall receive forgiveness without submitting the documentation required to the lender that is servicing the covered loan.
Loan Forgiveness

Timing of Loan Forgiveness Decision:
No later than 60 days after the date on which a lender receives an application for loan forgiveness from an eligible recipient, the lender will issue a decision on the application.

Taxability
Any amount forgiven is not included in gross income.

Payroll tax deferral not available to employers having loans forgiven.
Loan Forgiveness

Reduction of Loan Forgiveness

Lenders shall grant forgiveness at 100% of the loan amount or a lesser % based on one of the following ratios (borrower’s choice):

- Average # of FTE employees per month for the 8 week period following loan closing
- Average # of FTE employees per month for the period of 2/15/19 through 6/30/19

OR

- Average # of FTE employees per month for the 8 week period following loan closing
- Average # of FTE employees per month for the period of 1/1/20 through 2/29/20

Other calculations apply for seasonal businesses.

Businesses who have laid off workers or reduced worker salaries since 2/15/20 but plan to rehire and restore salaries to original levels with PPP loan proceeds can include those amounts in a loan request. Those amounts can ultimately be forgiven as long the business rehires or reinstates prior pay amounts no later than 6/30/20.

Loan forgiveness amounts shall be reduced by the amounts by which a borrower reduces the wages of an employee earning < $100,000 per year by more than 25% during the 8 week period from the date of loan disbursement as compared to the employee’s wage rate for the quarter prior to the date of loan disbursement.
Cherry Bekaert Assistance

For companies wanting assistance with PPP loan and forgiveness applications, we are offering:

- Fixed price assistance that includes:
  - Checklist of items needed for PPP loan application
  - Calculator and support to develop eligible front-end loan amount
  - Checklist of items needed for application for back-end loan forgiveness
  - Calculator and support to develop eligible loan forgiveness amount
  - Q&A consulting support

- Fixed price of $2,500 all-inclusive ($2,000 for non-profits)

- Dedicated team to provide expedited processing
How can borrower’s prepare?

When banks are ready to accept PPP loan applications it is guaranteed to look like a tsunami of application volume. How to get prepared:

- Call your banker today! Tell them you believe that you will qualify for a PPP loan and want to apply. Ask for their advice and assistance about getting expedited service.
- Consider that if your bank is inundated, you may need to apply elsewhere.
- Ask questions now – make sure your company qualifies and you will have supporting data for an application when the application details become available.
- Gather your prior 12 months data by month on payroll components as described, including employer portion of health and retirement benefits.
Contact Us

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