

THE CARES ACT: SBA LOAN PROGRAMS UNDER EIDL AND PPP

	PAYCHECK PROTECTION PROGRAM (PPP)	ECONOMIC INJURY DISASTER LOAN (EIDL)
SYNOPSIS	Loans intended to cover roughly 2.5 months-worth of “payroll costs” (defined below) for small businesses.	Loans to small businesses suffering from substantial economic injury due to COVID-19. \$10,000 express grants can be received within three days of applying, even if EIDL application is ultimately denied.
COVERED PERIOD	February 15, 2020 – June 30, 2020	January 31, 2020 – December 31, 2020
ELIGIBILITY	<p>All businesses (including LLCs, S Corps, C Corps, Sole Proprietorships, nonprofits, veterans’ organizations, and Tribal business concerns) with 500 or fewer employees. Independent contractors and the self-employed also qualify.</p> <p>Recipients of EIDL made between January 31, 2020 and April 3, 2020 are not prohibited from PPP loans so long as the uses for each loan remain separate.</p>	<p>Any small business or private nonprofit organization that meets the SBA’s Size Standards and that has suffered Substantial Economic Injury due to COVID-19.</p> <p>A business has suffered “substantial economic injury” when it is unable to meet its financial obligations, pay ordinary and necessary operating expenses, or has reduced working capital.</p> <p>Businesses that have not complied with a previous SBA loan are ineligible.</p>
AFFILIATION	The SBA’s Affiliation Standards have been waived for this Program for companies that are (a) in the hotel or food services industries; (b) franchises in the SBA’s Franchise Directory; and (c) receiving financial assistance from small-business investment companies licensed by the SBA.	<p>When determining eligibility, the SBA aggregates and reviews the applicant and all of its “affiliates” as one entity. In determining affiliation, the SBA considers ownership, ownership options and changes of legal structure, management, identity of interest, and licensing agreements.</p>
LOAN AMOUNT	The lesser of (i) 2.5 times the average total monthly Payroll Costs for the prior year plus any outstanding amounts owed on an EIDL executed between January 31, 2020 & April 3, 2020, if any, and less any emergency advance amounts obtained through the EIDL program, if any, or (ii) \$10 million.	Up to \$2 million.

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COLLATERAL	None.	Yes, for loans over \$25,000.
GUARANTEE	None.	Yes, for loans over \$200,000.
PERMITTED USES	<p>Payroll costs include salary, wages, commissions, payment of vacation, sick, parental/family/medical leave, payment of retirement contributions, group health coverage premiums and state and local taxes assessed on payroll.</p> <p>Payroll costs do not include Federal Payroll Tax and compensation paid to employees in excess of \$100,000 or to employees paid outside the U.S.</p> <p>In addition to payroll costs, PPP loans can be used to cover interest on mortgage obligations, rent, and utilities that were in use before February 15, 2020, and interest on debt obligations incurred before February 15, 2020.</p>	To pay fixed debts, payroll, accounts payable, rent, utilities and other bills that cannot be paid because of the disaster's impact.
INTEREST RATE	<p>1%.</p> <p>Payments of principal, interest and fees will be deferred for at least six months, but not more than one year.</p>	Up to 3.75% for business and up to 2.75% for nonprofits.
TERM	2 years.	Up to 30 years.
LOAN FORGIVENESS	A business owner is eligible for loan forgiveness for the amounts they spend over the eight-week period after receiving the loan payout for the qualifying permitted uses named above (except for interest on debt obligations incurred before February 15, 2020).	None.

**PAYCHECK
PROTECTION PROGRAM (PPP)**

**ECONOMIC
INJURY DISASTER LOAN (EIDL)**

**LOAN
FORGIVENESS
(CONT.)**

If the number of full-time employees is reduced over this eight-week period or if the salary or wages of employees who earned \$100,000 or less in 2019 are reduced by 25% or more, then the amount of the loan eligible for forgiveness will be reduced. However, depending on the timing of any such workforce or salary/wage reductions, reduced loan forgiveness can be avoided if the reductions are undone by June 30, 2020.

The lender will determine a business's eligibility for loan forgiveness based on the criteria mentioned and has 60 days to render a decision.

**APPLICATION
PROCESS**

A business owner must apply through an approved SBA 7(a) lender, or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating.

Applications open for small businesses and sole proprietors beginning on April 3, 2020. Independent Contractors can the application process as of April 10, 2020. All applications must be submitted to an approved lender by June 30, 2020.

In addition to a good faith certification that the funds will only be used for the permitted uses described above, the applicant will need to provide:

- Documentation that demonstrates the number of full-time employees on payroll, total payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight weeks after getting this loan. There is no need to include independent contractors in this documentation as they qualify to apply for a PPP loan on their own.
- Certification that the business owner has not and will not receive any other loan assistance under the CARES Act.

Additional specific guidance on the application process is expected by the SBA on April 6, 2020.

Applicants must provide the following documentation:

- Business tax returns for three prior years;
- Personal tax returns for each principal owning 20% or more of the applicant;
- 2019 Federal Tax Returns (or an explanation if not available);
- Personal Financial Statements (SBA Form 413) for each applicant and principal owning 20% or more of the applicant;
- Applicant's debt Schedule (SBA Form 2202); and
- Any business interruption insurance, if any.

Note, the SBA determines final loan terms on a case-by-case basis after evaluating each applicant's needs. Ultimately, loan terms are predicated on the economic injury sustained and an applicant's ability to pay back its obligations