

PAYMENT PROTECTION & ECONOMIC INJURY DISASTER LOAN PROGRAMS: KEEPING SMALL BUSINESSES ALIVE AMIDST COVID-19 SHUTDOWNS

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Significant questions have arisen regarding the availability of insurance coverage for business losses. Many insurers have sought to share information with their policyholders describing relevant aid and relief programs. Even outside the Insurance context, many business owners are actively seeking guidance and information about federal, state and local relief. Small businesses are struggling to pay employees and recoup other damages caused by evolving COVID-19 restrictions. In response, the U.S. Small Business Administration (“SBA”) will be administering low-interest, possibly forgivable loans under the Payment Protection Program (“PPP”) and the Economic Injury Disaster Loan Program (“EIDL”). PPP loans are intended to help small businesses pay employees. EIDL loans provide working capital for small businesses experiencing temporary revenue loss. The SBA will be consider applications on a case-by-case basis. Eligibility criteria, loan terms and application issues are outlined below.

PAYMENT PROTECTION PROGRAM

Qualification: Businesses with 500 or fewer employees may qualify for PPP loans. Qualifying business types include nonprofit organizations, veterans organizations, tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors. Qualifying businesses must have paid employees (and payroll taxes paid on behalf on those employees), or independent contractors. Loan applications also require certification that the loan is necessary to support ongoing operations due to current economic uncertainties. No personal guarantee or collateral is required. Businesses not operating prior to February 15, 2020 do not qualify.

Loan Terms: The loan amount can be up to two months (8 weeks) of average monthly payroll costs from the prior year plus an additional 25% added to that amount. ¹ Seasonal and new businesses will be assessed under different time periods. There is a \$10 million cap. For paying employees, the payroll cost will be capped at \$100,000 annualized per employee. The interest rate is the same

¹ Payroll costs include salary, wages, commission, or tips, employee benefits (including costs for vacation, parental, family, medical, or sick leave, allowance for separation or dismissal, payments required for the provisions of group health care benefits including insurance premiums, and payment of any retirement benefit), and state and local taxes assessed on compensation. For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.

for all loans - - 0.50% fixed rate. The loan maturity date is two (2) years. All payments are deferred for 6 months, but interest will continue to accrue.

Loan Forgiveness: In order for the loan to be completely forgiven, the loan must be used to pay for payroll costs, mortgage interest, rent, and utilities payments. It is anticipated that up to 25% of the forgiven amount may be used for non-payroll costs. Payment proofs must be provided to the lender. There are limitations to complete forgiveness. Businesses must maintain the number of full-time employees and payroll amount in place prior to February 15, 2020. Any decreases need to be restored by June 30, 2020. Salaries and wages cannot be decreased by more than 25% for any employee making less than \$100,000 in 2019. The loan forgiveness will be partially reduced if these conditions are not met.

Applying: Small businesses and sole proprietorships can apply for PPP loans as of April 3, 2020. Independent contractors and self-employed individuals can apply for PPP loans as of April 10, 2020. Non-SBA lenders will be available to offer PPP loans once approved and enrolled in the program. PPP loans will not be available until June 30, 2020; however, there is a funding cap so the government encourages immediate applications.² Businesses can apply through an existing SBA lender, or any participating federally-insured depository institution, federally-insured credit union, or Farm Credit System institution. Other regulated lenders can ask to enroll in the program.

ECONOMIC INJURY DISASTER LOAN PROGRAM

Qualification: Businesses with 500 or fewer employees may qualify for EIDL loans. Qualifying business types include most nonprofit organizations, veterans organizations, tribal business concerns, sole proprietorships, employee stock ownership plans, cooperatives, and independent contractors. Businesses not operating prior to January 31, 2020 do not qualify.

Loan Terms: Interest rates for up to \$2 million working capital loans are 3.75% (2.75% for nonprofit organizations). Loan terms can extend to thirty (30) years. Loan payments are deferred for one (1) year. Up to \$200,000 can be approved without personal guarantees. For loans under \$25,000, no collateral is required. General security interests in business assets can be used for collateral in place of real estate. Borrowers are required to consent to SBA review of tax records. Emergency grants are available within three (3) days of applying for an EIDL through December 31, 2020. Grants or loan advances are not repayable, but are subtracted from any forgiveness amount from a PPL Loan.

Applying: Applications can be submitted to the SBA online now.³ Businesses can apply for both a PPP loan and an EIDL. The proceeds from the PPP cannot be used for the same purpose as the EIDL. However, businesses can use the PPP loan to re-finance the EIDL.

CONCLUSION

² The PPP application can be found at: <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>

³ The EIDL application can be found at: <https://covid19relief.sba.gov/#/>

COVID-19 has left many small businesses struggling to maintain continuing expenses and recoup losses during the shutdown period. The PPP and EIDL programs allow businesses to obtain working capital and possibly forgivable loans to retain work forces until normal operations can resume and offset other economic losses.

Additional Resources:

U.S. Chamber of Commerce Fact Sheet

https://www.uschamber.com/sites/default/files/023595_comm_corona_virus_smallbiz_loan_financial.pdf

U.S. Treasury Fact Sheet

<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>

SBA Website

<https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp>

SBA FAQs

https://www.rubio.senate.gov/public/_cache/files/ac3081f6-14ae-4e6f-9197-172ede28badd/71AB6CB05A08E369E0D488A80B3874A5.faqs---paycheck-protection-program-faqs-for-small-businesses.pdf