

## **Small Business Loan programs under the CARES Act**

### **OVERVIEW**

As nearly all small business owners know by now, the federal government has provided a substantial amount of financial relief earmarked for small businesses in the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act signed into law by President Trump on March 27. Among other relief, the CARES Act provides an unprecedented \$349 billion in forgivable (you don’t have to repay them) loans allocated for small businesses in the United States on a **first-come, first-serve** basis through June 30, 2020.

Some of the parameters of these programs are uncertain at this time, as the federal government and private lenders are issuing new guidance on a day-by-day basis. Attorneys at Lacy, Price & Wagner are available to assist small businesses and nonprofits in navigating these sometime confusing eligibility and application requirements. If you have additional questions or need assistance with any of these programs, please contact us by phone (865-246-0800) or through our website at [www.lpwpc.com](http://www.lpwpc.com).

### **PAYCHECK PROTECTION PROGRAM (PPP)**

Perhaps the most popular of the new SBA loan programs, the Paycheck Protection Program (“PPP”) provides loans for small businesses to cover payroll and other operational expenses with the opportunity for the borrower to apply for forgiveness of a portion of the loan if certain requirements are met. These loans are offered by private lenders but guaranteed 100% by the federal government.

#### Application Timeframe (PPP)

Some existing SBA lenders are accepting applications for PPP loans from small businesses and sole proprietorships as early as Friday, April 3, while independent contractors and self-employed individuals may begin applying on Friday, April 10. Additional lenders may also open their application process on April 10 or later dates.

#### Eligibility (PPP)

To be eligible for PPP loans, the applicant must be a small business, including sole proprietorships, self-employed individuals, and independent contractors, or a nonprofit organization. The applicant must have fewer than 500 employees or otherwise meet applicable SBA size standards – with limited exceptions for businesses with greater than 500 employees (e.g., in the hospitality and dining industries). The applicant’s business must have been in operation on or before February 15, 2020, and must have had employees or independent contractors at that time. Applying for a PPP loan may make the business ineligible for other CARES Act relief, including EIDL loans in certain circumstances or the Employee Retention Tax Credit.

Each applicant must certify that current economic conditions make the loan request necessary to support ongoing operations and that the applicant has not applied for or obtained a duplicative loan. Each applicant must certify that it will use loan proceeds only for business-related expenses. Each applicant must also provide financial and payroll information; however, there are no collateral or personal guaranty requirements and no requirement that the applicant first seek traditional financing.

#### Loan Terms (PPP)

The amount of each borrower's loan cannot exceed 2.5 times average monthly payroll costs prior to the coronavirus pandemic or \$10 million, whichever is less. The maximum interest rate is 4.00%, and payments will be deferred for between six and twelve months.

Borrowers are eligible for loan forgiveness equal to the amount the borrower spends during the eight-week period following loan origination on payroll, mortgage interest, rent, utilities, and additional wages paid to tipped employees. Borrowers must apply for loan forgiveness separately and provide appropriate documentation of expenses. The amount forgiven cannot exceed the principal, and applicable payroll costs cannot exceed \$100,000 annualized per employee. The amount of loan forgiveness is reduced if the business reduces the number of employees or reduces wages after loan origination. Finally, the amount forgiven will not be taxable income to the borrower.

### **ECONOMIC INJURY DISASTER SBA LOAN PROGRAM (EIDL)**

In addition to PPP loans, the CARES Act also expands and modifies the existing Section 7(b) SBA Economic Injury Disaster Loan ("EIDL") Program, which also provides financial relief to small businesses in the form of loans.

#### Application Timeframe (EIDL)

EIDL loans are made directly by the SBA, and the application is available on the SBA website. This program is currently accepting applications.

#### Eligibility (EIDL)

EIDL loans are available to small businesses and private nonprofits located in the 50 states or U.S. territories that meet the SBA's size standards (generally, having fewer than 500 employees) and were in business as of January 31, 2020.

Applicants must provide certain financial information about their business, but there is no requirement that the applicant seek traditional financing first. If the amount of the loan is greater than \$200,000, a personal guarantee is required. If the amount of the loan is greater than \$25,000, a general security interest in the applicant's business assets (other than real estate) is required.

## Loan Terms (EIDL)

EIDL loans are capped at \$2 million, with a maximum term of 30 years. The interest rate is 3.75% for small businesses or 2.75% for nonprofits. Payments are deferred for one year.

An initial emergency grant advance of \$10,000 is available within three days of application for an EIDL loan. The initial advance does not have to be repaid, even if the EIDL loan is not approved; however, if the applicant also receives a PPP loan, the amount of the EIDL emergency advance will be subtracted from the amount forgiven. Also, an EIDL loan and PPP loan cannot be taken out by the same borrower for the same purpose.

## **ADDITIONAL RESOURCES**

Sample Paycheck Protection Program Application:

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>

EIDL Application: <https://covid19relief.sba.gov/#/>

SBA resources online: <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

U.S. Chamber of Commerce PPP Overview:

[https://www.uschamber.com/sites/default/files/023595\\_comm\\_corona\\_virus\\_smallbiz\\_loan\\_final.pdf](https://www.uschamber.com/sites/default/files/023595_comm_corona_virus_smallbiz_loan_final.pdf)

U.S. Chamber of Commerce EIDL Overview:

[https://www.uschamber.com/sites/default/files/uscc\\_covid19\\_sb-economic-injury-disaster-loans.pdf](https://www.uschamber.com/sites/default/files/uscc_covid19_sb-economic-injury-disaster-loans.pdf)

U.S. Senate Committee on Small Business and Entrepreneurship CARES Act Overview:

[https://www.sbc.senate.gov/public/\\_cache/files/9/7/97ac840c-28b7-4e49-b872-d30a995d8dae/F2CF1DD78E6D6C8C8C3BF58C6D1DDB2B.small-business-owner-s-guide-to-the-cares-act-final-.pdf](https://www.sbc.senate.gov/public/_cache/files/9/7/97ac840c-28b7-4e49-b872-d30a995d8dae/F2CF1DD78E6D6C8C8C3BF58C6D1DDB2B.small-business-owner-s-guide-to-the-cares-act-final-.pdf)

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