

# Small Business Administration Loans



## Overview

The Small Business Administration (SBA) has two loan programs to address COVID-19-related economic stress. The first program is the 7(a) Paycheck Protection Program and the second is the Economic Injury Disaster Loan (EIDL) program. The Paycheck Protection Program allows an eligible business to obtain up to \$10 million in loans for payroll, rent and utilities. The loan is eligible for forgiveness up to 100% of the principal of the loan, but such forgiveness will be reduced by any layoffs or reductions in salaries in excess of 25% of an employee's salary, subject to certain exceptions detailed below. The EIDL program allows an eligible business to obtain up to \$2 million in loans for working capital. The EIDL program allows for a \$10,000 forgivable advance upon application but is otherwise not forgivable.

**TIP:** You can obtain both a Paycheck Protection Program loan and an EIDL; however, you cannot seek recovery under the EIDL for the same costs that are covered by a Paycheck Protection Program loan. Both loans are low interest loans with favorable terms; however, only the Paycheck Protection Program has the forgiveness element.

## Paycheck Protection Program

### Eligibility timeframe

- Feb. 15–June 30, 2020

### Eligibility

- Businesses that employ 500 employees or fewer are eligible.
- In determining whether you have less than 500 employees, you must aggregate with any affiliates.
- Affiliation is a fact-specific question, but generally the SBA will find affiliation in the following circumstances. Detailed information regarding affiliation is available [here](#).
  - A business is an affiliate of an individual, concern or entity that owns or has the power to control more than 50% of the concern's voting equity.
  - Affiliation arises where the CEO or president of the applicant concern (or other officers, managing members or partners who control the management of the concern) also controls the management of one or more other concerns.
  - Affiliation also arises where a single individual, concern or entity controls the management of the applicant concern through a management agreement.

### Amount of funds available

- The maximum amount of the loan is the lesser of:
  - \$10 million and the sum of:
    - The product obtained by multiplying the average total monthly payments by the applicant for payroll costs incurred during the one-year period before the date on which the loan is made (with separate determination for seasonal employer), by 2.5
    - The outstanding amount of a loan under the SBA's EIDL program made from Jan. 31 to April 3, 2020
- Payroll costs are defined as:
  - Including:
    - Salary, wage, commission, or similar compensation
    - Payment of cash tip or equivalent
    - Payment for vacation, parental, family, medical or sick leave
    - Allowance for dismissal or separation
    - Payment required for the provisions of group health care benefits, including insurance premiums

- Payment of any retirement benefit
- Payment of state or local tax assessed on the compensation of employees
- Excluding:
  - The compensation of an individual employee in excess of an annual salary of \$100,000 as prorated for the covered period
    - Note: This only applies to cash compensation. Non-cash benefits, including employer contributions to defined benefit and defined contribution retirement plans, payment for the provision of group health care benefits and insurance premiums, and payment of state and local taxes assessed on employee compensation, are not counted in calculating the cap. Therefore, those non-cash benefits may be included as a payroll cost, even for employees who have cash compensation in excess of \$100,000 on an annualized basis.
  - Taxes imposed or withheld under chapters 21, 22 or 24 of the Internal Revenue Code for the covered period
  - Any compensation of an employee whose principal place of residence is outside of the U.S.
  - Qualified sick leave for which credit is allowed under Section 7001 of the Families First Coronavirus Response Act
  - Qualified family leave for which credit is allowed under Section 7003 of the Families First Coronavirus Response Act

### Repayment terms

- Loans entered into prior to June 5: Two-year maturity beginning on origination with 1% interest
- Loans entered into following June 5: Five-year maturity beginning on origination with 1% interest

### Loan forgiveness

- Recipients are eligible for forgiveness of a portion of the loan in an amount equal to the sum of payroll costs, interest payments on mortgage obligations, payments on covered rent obligations and any covered utility payments, but not to exceed the principal amount spent during the covered period. For loans originated prior to June 5, the covered period may be eight weeks, or the earlier of 24 weeks and Dec. 31, 2020. For loans originated after June 5, the covered period is the earlier of 24 weeks and Dec. 31, 2020.
- The amount of loan forgiveness will be reduced in accordance with any reduction in the number of employees or employee salaries during the covered period, though there are some exceptions. One such exception is an inability to return to the same level of business activity as the business was operating at before Feb. 15 due to compliance with COVID-19 related requirements or guidance issued by HHS, CDC, or OSHA.
- Please note that the SBA will only forgive up to 40% of a Paycheck Protection Program loan used for non-payroll costs incurred in the covered period.

**TIP:** To be eligible for full forgiveness under the Paycheck Protection Program, at least 60% of the loan must be spent on payroll costs.

### Payment deferment

- Until the date on which the amount of forgiveness is determined and remitted to the lender, interest will accrue during deferment.
- Payments may begin on the day that is 10 months after the end of the covered period if the borrower has failed to apply for forgiveness within 10 months of the last day of the covered period.

### Use of loan funds

- Payroll costs
- Mortgage interest payments for mortgages on real and personal property incurred prior to Feb. 15, 2020
- Utilities, for contracts dated prior to Feb. 15, 2020
- Rent for leases on real and personal property dated prior to Feb. 15, 2020

### Application

Applications for the Paycheck Protection Program are processed through qualified 7(a) lenders. You must complete SBA [Form 2483](#), provide payroll documentation and provide any other information required by the lender.

Paycheck Protection Program applicants must respond to the following questions:

- Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?
- Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last seven years and caused a loss to the government?
- Is the Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.
- Has the Applicant received an SBA Economic Injury Disaster Loan between Jan. 31, 2020, and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.
- Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole?
- Within the last five years, for any felony, has the Applicant (if an individual) or any owner of the Applicant (1) been convicted; (2) pleaded guilty; (3) pleaded nolo contendere; (4) been placed on pretrial diversion; or (5) been placed on any form of parole or probation (including probation before judgment)?
- Is the United States the principal place of residence for all employees of the Applicant included in the Applicant's payroll calculation above?

### Certification

- The Applicant was in operation on Feb. 15, 2020, and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.
- Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.
- The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments and utility payments.
- The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments and covered utilities for the eight-week period following the loan.
- The Applicant must state that he or she understands that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs.
- During the period beginning on Feb. 15, 2020, and ending on Dec. 31, 2020, the Applicant has not and will not receive another loan under the Paycheck Protection Program.
- The information provided in the application and the information provided in all supporting documents and forms is true and accurate in all material respects.

### Additional information

The AMA has more discussion of the SBA loans available [here](#).

## Economic Injury Disaster Loan

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### Eligibility timeframe

- Businesses in operation during the period of Jan. 31–Dec. 31, 2020

### Eligibility

- Businesses that employ 500 employees or fewer are eligible.
- In determining whether you have less than 500 employees, you must aggregate with any affiliates.
- Affiliation is a fact-specific question, but generally the SBA will find affiliation in the following circumstances. Detailed information regarding affiliation is available [here](#).
  - A business is an affiliate of an individual, concern or entity that owns or has the power to control more than 50% of the concern's voting equity.
  - Affiliation arises where the CEO or president of the applicant concern (or other officers, managing members or partners who control the management of the concern) also controls the management of one or more other concerns.
  - Affiliation also arises where a single individual, concern or entity controls the management of the applicant concern through a management agreement.

### Amount of funds available

- The maximum amount of the loan is \$2 million.

### Repayment terms

- Thirty-year maturity beginning on origination with 3.75% interest.

### Loan forgiveness

- Applicants may request a \$10,000 advance, upon application, that is forgivable.

### Payment deferment

- At least a six-month deferment, which may be extended to up to one year. Interest will accrue during deferment.

### Use of loan funds

- Working capital

### Application

Apply online [here](#). Applicants must respond to the following questions:

- In the past year, has the business or a listed owner been convicted of a criminal offense committed during and in connection with a riot or civil disorder or other declared disaster, or ever been engaged in the production or distribution of any product or service that has been determined to be obscene by a court of competent jurisdiction?
- Is the applicant or any listed owner currently suspended or debarred from contracting with the Federal government or receiving Federal grants or loans?
- Are you presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction?
- Have you been arrested in the past six months for any criminal offense?
- For any criminal offense—other than a minor vehicle violation—have you ever been convicted, plead guilty, plead nolo contendere, been placed on pretrial diversion, or been placed on any form of parole or probation (including probation before judgment)?

### Certification

- The information provided in the application and the information provided in all supporting documents and forms is true and accurate in all material respects.

### Additional information

The AMA has more information about the CARES Act and the SBA Loan programs available [here](#).