

# CORONAVIRUS EMERGENCY RELIEF

## Small Business Information Guide

Updated April 3, 2020

## KEY QUESTIONS & ANSWERS

### 1 Am I **ELIGIBLE**?

You are eligible if you are:

- A small business with fewer than 500 employees.
- A small business that otherwise meets the SBA size standard.
- A 501(c)(3) with fewer than 500 employees.
- An individual who operates as a sole proprietor.
- An individual who operates as an independent contractor.
- A self-employed individual who regularly carries on any trade or business.
- A Tribal business concern that meets the SBA size standard.
- A 501(c)(19) veteran's organization that meets the SBA size standard.

The following special rules could also make you eligible:

- If you are in the accommodation and food services sector (NAICS 72), the 500 employee rule is applied on a per physical location basis.
- If you are operating as a franchise or receive financial assistance from an approved small business investment company, the normal affiliation rules do not apply.

**REMEMBER:** The 500 employee threshold includes all employees: full-time, part-time and any other status.

The **Coronavirus Aid, Relief, and Economic Security (CARES) Act** has allocated \$350 billion to help small businesses keep workers employed amid the pandemic and economic crisis. Known as the Paycheck Protection Program, the initiative provides 100% federally guaranteed loans to small businesses.

Importantly, these loans may be forgiven if borrowers maintain their payrolls during the crisis or restore their payrolls afterward.

**More details, including the list of lenders offering loans under the program, will be released soon.**

Our firm is offering this information to assist our small business clients.



## 2 What will lenders **BE LOOKING FOR?**

In evaluating eligibility, lenders are directed to consider whether the borrower was in operation before February 15, 2020 and had employees to whom they paid salaries and for whom they paid payroll taxes—or paid independent contractors.

Lenders will also ask you for a good faith certification that:

1. The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations.
2. The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease and utility payments.
3. The borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here.
4. From February 15, 2020 to December 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here. Note: There is an opportunity to fold emergency loans made between January 31, 2020 and the date this loan program becomes available into a new loan.

If you are an independent contractor, sole proprietor or self-employed individual, lenders will also be looking for certain documents (which will be determined and announced by the government), such as payroll tax filings, Forms 1099-MISC, and income and expenses from the sole proprietorship.

### Lenders will **NOT BE LOOKING FOR...**

- Ability of the applicant to secure credit elsewhere
- A personal guarantee
- Collateral

### 3 How much can I **BORROW**?

Loans can be up to 2.5 times the average total monthly payroll costs for the 12 months prior to loan origination—not to exceed \$10 million.

#### How do I calculate average **MONTHLY PAYROLL COSTS**?



#### **INCLUDED PAYROLL COSTS**

**For employers:** The sum of payments of any compensation (with respect to employees) that is a:

- 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 the employee.

#### **For sole proprietors, independent contractors and self-employed**

**individuals:** The sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation—and that is in an amount that is not more than \$100k in one year as prorated for the covered period.

#### **EXCLUSIONS**

- Compensation of any individual employee whose annualized or actual salary exceeded \$100k over the 12 months prior to loan origination.
- Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act.
- Any compensation of an employee whose principal place of residence is outside of the United States.



#### **Maximum loan for non-seasonal employers:**

**2.5 times the** average total monthly payroll costs for the 12 months prior to loan origination—not to exceed \$10 million.

#### **For businesses not operational in 2019:**

**2.5 times the** average total monthly payroll costs during January and February 2020.

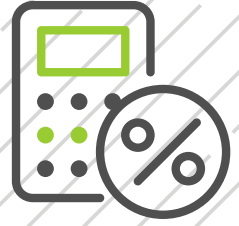
#### **Maximum loan for seasonal employers:**

**2.5 times the** average total monthly payments for payroll costs during the 12-week period beginning February 15, 2019 **or** March 1, 2019 (at the applicant's discretion) and ending June 30, 2019.

## 4 Will this loan be **FORGIVEN**?

Borrowers are eligible for loan forgiveness equal to the amount the borrower spent during the eight-week period—beginning on the date the loan originated. The following items qualify for loan forgiveness:

- Payroll costs (applying the same definition of payroll costs used to determine loan eligibility).
- Interest on mortgage obligation incurred in the ordinary course of business.
- Rent based on a leasing agreement.
- Utility costs—including electricity, gas, water, transportation, telephone and internet.
- Additional wages paid to tipped employees.



Note: Loan forgiveness cannot exceed the principal.

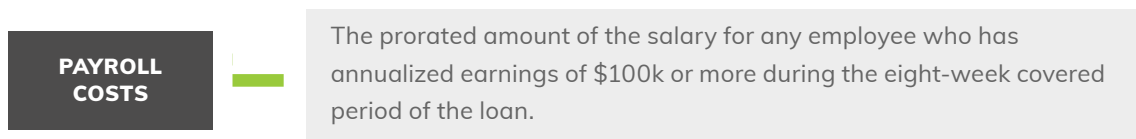
### HOW MUCH COULD THE AMOUNT BE REDUCED?

The amount of loan forgiveness will be reduced if there is a reduction in the number of employees or a reduction of greater than 25% in wages paid to employees. Specifically:

#### Reduction based on reduction of number of employees



#### Reduction based on reduction in salaries



### WHAT IF I BRING BACK EMPLOYEES OR RESTORE WAGES?

Employment or wage reductions occurring between February 15, 2020 and 30 days following passage of the CARES Act will not reduce the amount of loan forgiveness—if by June 30, 2020 the borrower eliminates the reduction in employees or reduction in wages.

Note: For the loan to be fully forgiven, 75% or more of business expenses must be for payroll.

# ADDITIONAL FAQs

## What is the Economic Injury Disaster Loan (EIDL) program?

The EIDL program can provide up to \$2 million dollars of financial assistance to small businesses and non-profit organizations that have experienced substantial economic injury as a result of the COVID-19 crisis. When you apply for an EIDL, you can also obtain a \$10k advance within three days of applying for the loan. The \$10k advance is considered a grant and does not need to be repaid.

## Why would I apply for an Economic Injury Disaster Loan?

If your business is severely impacted by the COVID-19 pandemic, an EIDL will provide greater funds to keep your business operational longer. The Paycheck Protection Program (PPP) offers forgiveness, but the loan amount for some businesses won't be enough to sustain operations after re-opening. You may also consider applying for an emergency EIDL grant, available under the CARES Act.

## What if I already applied for an Economic Injury Disaster Loan?

If you can benefit from the forgiveness portion of the Payroll Protection Program, we suggest refinancing the EIDL and merging the payroll portion into the PPP loan. You would then keep the EIDL balance for further assistance.

## Can I get both the Economic Injury Disaster Loan and a Paycheck Protection Program loan?

Yes, but the amounts considered in the EIDL cannot include payroll costs or be used to cover payroll expenses.

## Should everyone apply for the Paycheck Protection Program?

Most businesses can benefit from this program. If you are not able to use the loan to cover payroll costs (and therefore do not qualify for loan forgiveness), worst case is that you will carry a low-interest loan for a two-year period.

## Do I have to offer the Families First Coronavirus Response Act paid sick and leave?

Technically, yes. If the Act will severely impact business operations, it is important for businesses with fewer than 50 employees to apply for the exemption (if you qualify). If you do not apply for exemption, you are required to abide by the Act. Exemption qualifications will be posted and updated on the U.S. Department of Labor website.

## I'm self-employed...what loan options do I have?

Self-employed individuals have two options: 1) Self-employed individuals or independent contractors are eligible for enhanced unemployment options as part of the CARES Act and 2) Self-employed Individuals are eligible for a PPP loan.





# LOAN COMPARISON CHART

|  | <b>Economic Injury Disaster Loan</b>  | <b>Paycheck Protection Program (CARES Act)</b>   |
|--|---|--|
| <b>Covered period</b>                  | Based on State Disaster Declaration   | 2/15/20 through 6/30/20  |
| <b>Loan amount</b>                     | Loan based on credit and collateral—up to \$2 million                       | 2.5 times the average total monthly payroll costs for the 12 months prior to loan origination—up to \$10 million |
| <b>Interest rate</b>                   | Maximum of 3.75%  | Fixed rate of 1%   |
| <b>Loan duration</b>                   | Maximum of 30 years   | 2 years  |
| <b>Grants or forgiveness available</b> | Advance (grant) of \$10k available to maintain payroll or other debts       | Forgiveness available  |
| <b>Collateral required</b>             | Yes, must provide or pledge collateral for loans over \$25k                 | No collateral required   |
| <b>Personal guarantee required</b>     | Yes, requires Personal Financial Statement to be submitted                  | No personal guarantee required   |
| <b>Payment deferral</b>                | Can be negotiated with SBA during application process                       | No less than 6 months and up to 1 year, including interest, fees and principal                                   |
| <b>How to apply</b>                    | Direct through SBA  | Through approved banks and other lenders; SBA may administer based on necessity                                  |
| <b>Denied SBA loan previously?</b>     | If yes, loan may not be a good option—unless business situation has changed | More lenient   |
| <b>Business size requirement</b>       | 500 or fewer employees  | 500 or fewer employees   |