

ALERT

Qualifications and Application Procedures for CARES Act Relief Program

Qualifications and Application Procedures for CARES Act Relief Programs

On Friday, March 27, 2020, President Trump signed a \$2 trillion stimulus package, entitled the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act"). The CARES Act is described in detail in our website Alert published March 30, 2020, which is available at the following web address: <https://www.brothersmithlaw.com/publications/alert-the-cares-act-and-small-businesses/>.

The CARES Act is primarily comprised of three (3) relief programs: (1) the Paycheck Protection Program, (2) the Small Business Debt Relief Program and (3) Economic Injury Disaster Loans and Emergency Economic Injury Grants. The purpose of this publication is to provide certain information regarding eligibility requirements and application processes for each of these relief programs.

1. Paycheck Protection Program Loans ("PPP Loan")

Which businesses qualify?

- Must have been in operation as of February 15, 2019
- Must have been affected by COVID-19 related events
- Must have five hundred (500) employees or less or be in an industry that uses an employee-based size standard
- Includes:
 - For-profit businesses, including most franchises
 - Sole proprietorships, independent contractors, gig economy workers and other self-employed individuals
 - Tribal businesses
 - Veterans organizations
 - Nonprofit Organizations (generally 501(c)(3) charitable organizations and 501(c)(19) veterans organizations)

What can the PPP Loan be used for?

- Payroll, including salary, hourly wages, commission payments and cash tips, where applicable (employee/owner compensation over \$100,000 is excluded)
- Payment for vacation, parental, family medical and sick leave
- Severance payments
- Costs related to group health care benefits, including insurance premiums
- Payment of retirements benefits
- Payment of payroll taxes
- Rent and mortgage payments
- Utilities
- Interest on debts that were incurred before February 15, 2020

How much can a business borrow?

- Two and one-half times (2.5x) the business' average monthly payroll expenses during the period from February 15, 2019 through June 30, 2019, up to \$10 million
- For a business that was not in business during the entire February 15, 2019 through June 30,

2019 time period, the maximum loan amount is 250% of the average monthly payroll costs between January 1, 2020 and February 29, 2020;

- Qualifying expenses incurred during an eight (8)-week period between February 15, 2020 and June 30, 2020 are eligible for Loan Forgiveness under the following conditions:
 - ○ PPP Loan may be forgiven if the business retains all of its employees
 - ○ If the business lays off some employees, the forgiveness amount will be reduced in proportion to the percentage decrease in the number of employees
 - ○ Loan may still be forgiven if the business lays off but then rehires employees by June 30, 2020
- Loans are retroactive to February 15, 2020, so that businesses may rehire workers who were already laid off
- Any loan amounts not forgiven are payable over ten (10) years, at a fixed interest rate of four percent (4%) maximum

NEXT STEPS

Where to apply:

- Any bank or other lending institution that is approved to participate in the program through the existing U.S. Small Business Administration (SBA 7(a)) lending program.
- Additional lenders who are approved by the Treasury Department
- Therefore, your business may be able to apply at any bank or institution that you already use, or at a nearby bank or institution
- How to find approved lenders?
 - ○ Inquire with your bank or credit union
 - ○ SBA's online Lender Match tool
 - ○ Call your local Small Business Development Center or Women's Business Center
 - ○ Research indicates that US Bank, Sunrise Banks, Key Bank and Live Oak Bank are among the approved lenders.
- The 100 most active SBA 7(a) lenders in the U.S. in 2019:
<https://www.sba.gov/article/2020/mar/02/100-most-active-sba-7a-lenders>

Relevant Time Periods:

- Applications accepted beginning **Friday, April 3**
 - ○ Certain banks are accepting pre-applications
- Deadline to apply: **June 30, 2020**
- Loans are first come, first served

Required and/or Recommended Documents:

- The exact documents required by the SBA approved banks in order to apply and to request loan forgiveness are unknown at this time.
- However, since the loan calculation will be based on "payroll costs", your business should begin to gather the following information, where applicable:
 - ○ Payroll Records from the last twelve (12) months
 - ○ Amounts paid to independent contractors by cash, check, ACH, payment services (Paypal, Venmo, Zelle, etc.) for the last twelve (12) months
 - ○ EDD documentation
 - ○ Documents relating to the costs of group health insurance, retirement benefits and other employee benefits
 - ○ Lease and mortgage documents
 - ○ Utility bills
 - ○ Financial statements for 2019 and 2020

2. **Small Business Debt Relief Program**

Purpose

- A program to assist businesses in making payments on their current or potential SBA loans
- Applies to non-PPP SBA loans, particularly 7(a), 504 and microloans

Which loans qualify?

- Current SBA loans
- New SBA loans issued prior to September 27, 2020

Which businesses qualify?

- Generally small businesses under the North American Industry Classification System ("NAICS") standard

What does the program cover?

- The SBA will pay the principal, interest and fees of these loans for up to six (6) months

NEXT STEPS

How to apply:

- Contact the bank or lending institution through which your business obtained its existing non-PPP SBA loan or intends to apply for a non-PPP SBA loan

3. Economic Injury Disaster Loans (“EIDL”) and Emergency Economic Injury Grants (“EEIG”)

Purpose:

- Intended to quickly provide a modest amount of cash to cover operating expenses, including payroll, sick leave, increased production costs due to supply chain disruptions and other business obligations such as rent and mortgage
- EIDL Loans: Up to \$2 million
 - ○ Not eligible for loan forgiveness
- EEIG Grants: Emergency cash advance of up to \$10,000
 - ○ If a business receives both a PPP Loan and an EEIG Grant, the amount of the EEIG Grant will be deducted from the amount of the PPP Loan that may be forgiven
- If the business also applied for the PPP Loan, the EIDL Loan must be used for different expenses

Which businesses qualify?

- Small business concerns and small agricultural cooperatives that meet size standards
- Most non-profit businesses of any size
- Sole proprietorships, with or without employees
- Independent contractors
- Cooperatives and employee-owned businesses
- Tribal small businesses
- All categories of applicants must have 500 or fewer employees
- Must have been in operation as of January 31, 2020

NEXT STEPS

How to apply:

- Unlike the PPP Loans, the EIDL Loans are administered directly by the SBA
- Application available online at: <https://covid19relief.sba.gov/#/>
- Businesses may apply for both the EIDL Loan and EEIG Grant in a single application
 - ○ SBA currently predicts that the EEIG Grant funds will be available three (3) days after submitting the application
 - ○ Your business has the option of accepting only the EEIG Grant and not the EIDL Loan

Information Needed to Apply:

- Basic information concerning the business (legal name/dba, contact information, EIN, nature of business, type of business organization, number of employees)
- Gross revenues for February 1, 2019 through January 31, 2020
- Cost of goods sold from February 1, 2019 through January 31, 2020
- Lost rents from rental properties due to COVID-19
- For nonprofits, costs of operation from February 1, 2019 through January 31, 2020
- Compensation from other sources received as a result of COVID-19
- Other information and documents as may be requested

Relevant Time Periods

- Deadline: **December 31, 2020**; however, businesses are advised to apply as soon as possible

If you have any questions or would like any further clarification on the CARES Act, its impacts and/or qualification and application processes, please feel free to reach out to us.

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