



## COVID-19 Emergency Loans for Small Businesses

Last Update: January 11, 2021 — **All newly added information, which is italicized and marked with the note “[New],” is based on the COVID-19 relief bill signed into law on December 27, 2020. All other information and guidance remains unchanged. A further update will be provided, regarding PPP and EIDL loans, as additional information becomes available.**

*[New] On December 27, 2020, The Consolidated Appropriations Act, 2021 was signed into law, which appropriates an additional \$284 billion and \$20 billion for the Paycheck Protection Program (PPP) and the Economic Injury Disaster Loan (EIDL) Program, respectively. These additional relief funds are intended to provide further immediate loan assistance to small businesses (including sole proprietorships, independent contractors, self-employed individuals and qualifying nonprofit organizations) that continue to be impacted by the pandemic.*

### Paycheck Protection Program (PPP) Loans

#### Eligibility

- A small business may be eligible for a PPP loan if the following qualifications are met:
  - (1) The business was in operation on February 15, 2020;
  - (2) The loan is “necessary to support ongoing operations” (“Necessity Certification”); AND
    - Each business must certify same during the application process (see “How to Apply” section below for more information)
  - (3) The business meets its applicable size test:
    - (i) If the business is applying for its first PPP loan, then the size test will be met if it (any of the following):
      - (a) employs no more than 500 employees;
        - SBA affiliation rules regarding related entities applies for determining eligibility
        - There are limited exceptions with respect to certain businesses, such as those in the “accommodation and food services” sector under the NAICS (i.e., NAICS codes beginning with 72), whose number of employees is determined per physical location
      - (b) meets the SBA’s Small Business Size Standards by NAICS Industry; OR
        - [Standards table](#)
        - [Business size classification system tool](#)
      - (c) has a maximum tangible net worth of \$15 million or less AND an average net income of \$5 million or less for the past two full fiscal years
    - *[New] (ii) If the business is applying for its second PPP loan, then the size test will be met only if:*
      - (a) *the business employs no more than 300 employees (see above for more on this calculation)*
        - *Businesses that fall under NAICS Code 72/Accommodation and Food Services sector with multiple physical locations may employ up to 500 employees per location*
- *If the business is applying for its second PPP loan, the following two additional qualifications must be met:*
  - (4) *The business experienced a 25% decline in gross receipts in any of the first three quarters of 2020 compared with the same quarter in 2019; AND*
    - *Gross receipts include all revenues from the normal operation of the business before subtraction of expenses but will not include amounts borrowed, including amounts received for PPP loans*
    - *Special rules apply to businesses that did not exist for some or all of 2019*

- (5) *The business used, or can demonstrate a plan to use, all of its first PPP loan funds prior to the expected second PPP loan disbursement date*
  - *An existing PPP loan may be refinanced with a new PPP loan subject to the new PPP, but no borrower may be indebted under two PPP loans at the same time*
  - *A business that returned all or part of a previous PPP loan may reapply for the maximum amount applicable so long as it has not received forgiveness for the previous PPP loan*

## Loan Details

- **Maximum amount:**

- Lesser of:
  - (1) The average monthly payroll costs for the year prior to the loan date multiplied by 2.5 or, for businesses which fall under NAICS Code 72/Accommodation and Food Services, 3.5; AND
    - Payroll costs include: (i) salaries, wages, commissions, or similar compensation; (ii) pay of cash tip or equivalent; (iii) payment for vacation, parental, family, medical and sick leave; (iv) allowances for dismissal or separation; (v) group health care benefits and premiums; (vi) retirement benefits; and (vii) state and local tax assessed on employee compensation
    - Special rules apply to seasonal employers
    - To determine the average monthly payroll costs for this calculation, borrowers should (i) take their aggregate annual payroll costs for US employees, (ii) subtract compensation paid to each employee in excess of \$100,000, and then (iii) divide that number by 12
  - (2) (i) if the business has not yet received a PPP loan, \$10 million; *[New]* or (ii) if the business is applying for its second PPP loan, \$2 million
    - *For businesses that have received a PPP loan within the last 90 days, the aggregate of the new and initial loans cannot exceed \$10 million*
    - *A business that is part of a single corporate group (majority owned, directly or indirectly, by a common parent) cannot receive more than \$20 million or \$4 million in total PPP loans and second PPP loans, respectively, in the aggregate across the group*
      - *The applicant bears the responsibility of notifying its lender if this limit is exceeded, and failure to do so will be considered an unauthorized use of PPP funds and prevent the loan from being forgiven*

- **Permitted uses**

- Payroll costs (see above for what that includes)
- Interest on mortgage obligations
- Interest on other debt obligations incurred prior to February 15, 2020
- Refinancing an EIDL loan made between January 31, 2020 and April 3, 2020
- Rent under lease agreements
- Utilities for services
- *[New] Covered worker protection and facility modification expenditures, including personal protective equipment, to comply with COVID-19 federal health and safety guidelines during the period between March 1, 2020, and the end of the ongoing national emergency declaration*
- *Expenditures to suppliers that are essential at the time of purchase to the recipient's current operations and made pursuant to a contract in effect prior to the loan's covered period (explained below)*
- *Covered operating costs, such as software and cloud computing services and accounting needs*
- *Costs related to property damage due to public disturbances that occurred during 2020 that are not covered by insurance*

- **Time to use funds (covered period)**

- The business may use PPP funds until the earlier of:
  - (1) the end of the covered period chosen by the business, *[New]* which may be any date the business elects between the eighth week and 24<sup>th</sup> week following disbursement of the funds; AND
  - (2) March 31, 2021

- **Forgiveness**
  - Loan funds are **fully forgivable**, subject to the below restrictions:
  - Amount forgiven will be **reduced if**:
    - (1) more than 40% of funds was used toward non-payroll costs;
    - (2) reduction in salaries/wages greater than 25% for employees making less than \$100,000; OR
      - No reduction required if (a) fully restored within *[New] 24 weeks* or (b) unable to fully restore due to an inability to return to pre-COVID-19 business activity
    - (3) reductions in full-time head count for employees making less than \$100,000
      - No reduction required if (a) fully restored within *[New] 24 weeks* or (b) unable to fully restore due to an inability to re-hire the same or similarly qualified employees or to return to pre-COVID-19 business activity
  - *[New] PPP funds not used for permitted purposes will be ineligible for forgiveness and if knowingly used for unauthorized purposes, may subject the business to additional liability, including charges for fraud*
  - **Forgiveness application** must be submitted by the borrower end of loan term:
    - *[New] For borrowers who received PPP funds totaling \$150,000 or less*
      - *The business may submit the SBA's forthcoming simplified, one-page forgiveness application, which will require a description of the number of employees the business was able to retain because of the loan, the estimated total amount of the loan spent on payroll costs, and the total loan amount*
        - *While no other documentation is required to be submitted with the one-page form, borrowers are required to retain records relevant to the form that prove compliance with the requirements in case of audit, specifically, four years for records related to employment and three years for other records*
    - For borrowers who receive PPP loans in an amount greater than \$150,000, the required certifications and documentation to be provided for loan forgiveness remain the same as provided under the CARES Act/previous rounds of PPP funds
  - **For loan amount not forgiven**
    - **Term**
      - For PPP loans that originated **before** June 5, 2020: 2 years (but borrower and lender may agree to extend term)
      - For PPP loans that originated **on or after** June 5, 2020: 5 years
    - **Deferment**
      - If borrower applies for forgiveness within 10 months of the end of their covered period, then principle and interest payments will be deferred until the SBA makes a decision on the forgiveness application
      - If borrower does not apply for forgiveness within that time, principle and interest payments will begin immediately thereafter (i.e., 10 months after the end of their covered period)
    - **Interest rate** of 1%
- **Tax treatment**
  - *[New] Forgiven PPP loans may be excluded from income*
    - *However, an independent contractor/self-employed individual that uses a PPP loan to pay for their salary must report same as earnings when filing a weekly unemployment claim and may have their unemployment benefits eligibility impacted as a result*
  - *Business expenses paid with forgiven PPP loans are tax-deductible*
- **No fees** may be charged to the business for a PPP loan
- **No collateral or personal guarantees** are required

## How to Apply

- Find an SBA-approved lender participating in the PPP program

- *[New]* The SBA will accept applications only from community financial institutions (CFIs) from January 11, 2021, to January 12, 2021, for initial PPP loans and starting January 14, 2021, for second PPP loans
  - If your business happens to be in an underserved or disadvantaged community and has not applied for a PPP loan before, look for a community lender, including a Community Development Financial Institution, Minority Depository Institution, certified development company or micro lender intermediary
    - The SBA has an [online tool](#) to help match these businesses with smaller lenders who can aid traditionally underserved communities
    - You can also ask [your local SBA district office for assistance](#)
- Thereafter, on a date to be announced by the SBA, the SBA will reopen the program to all remaining eligible lenders
  - [The SBA also has a separate online tool more broadly designed to match these lenders and borrowers](#)
  - Many lenders prioritize their existing customers, so best to check with your existing lender first
  - In addition to banks, you may be able to submit an online application to certain SBA-approved direct/non-bank lenders, such as *[New]*:
    - Kabbage
    - Bluevine
    - Biz2Credit
    - Funding Circle
- Compile supporting documentation for your lender
  - Most lenders will likely require the following payroll documentation, which your payroll provider or accountant may be of assistance in collecting:
    - 2019 and 2020 IRS Quarterly 940, 941 or 944 payroll tax reports
    - Payroll reports for a 12-month period (ending on your most recent payroll date), which show the following information:
      - Gross wages for each employee, including officer(s) if paid W-2 wages
      - Paid time off for each employee
      - Vacation pay for each employee
      - Family medical leave pay for each employee
      - State and local taxes assessed on an employee's compensation
    - 1099s for independent contractors from previous year
    - Documentation showing total of all health insurance premiums paid by the company owner(s) under a group health plan
      - Include all employees and the company owners
    - Document the sum of all retirement plan funding that was paid by the company owner(s) (not to include funding that came from employees out of their paycheck deferrals)
      - Include all employees and the company owners
      - Include 401(k) plans, Sime IRA, SEP IRAs
  - *[New]* Additionally, if applying for your second PPP loan, you will also need documentation regarding your 2019 and 2020 gross receipts (see "Eligibility" section above for more on gross receipts)
- **Complete** an application form, found [here if applying for first PPP loan](#) and [here if applying for second PPP loan](#)
  - As part of the application process, you will be required to certify in good faith that your business meets the various requirements and is in compliance with the rules discussed above
    - Borrowers with loans of less than \$2 million will be deemed to have made the "Necessity Certification" (set forth in "Eligibility" section above) in good faith
    - Conversely, borrowers with loans of \$2 million or more will be audited by the SBA, which will entail, at a minimum, completing a [loan necessity questionnaire](#) as part of the forgiveness process

- The loan funds will be disbursed within 10 days after approval, which is when the loan is also assigned an SBA loan number

## **SBA's Economic Injury Disaster Loans (EIDL) Program**

### **Types of Funds**

- (1) EIDL Advance/Grant ("Advance")
  - Provided within 21 days upon request for same in EIDL loan application (i.e., no approval required)
  - No obligation to repay
- (2) EIDL loan
  - Must be approved in order to receive
  - Obligation to repay (as discussed below)

### **Eligibility**

- (1) Advance
  - *[New]* A small business may be eligible for an Advance if it:
    - (i) is located in a low income community;
    - (ii) suffered a 30% economic loss; AND
      - Based upon an eight-week period of gross receipts between March 2, 2020, and December 31, 2021, compared with an eight-week period during 2019 or the eight weeks before March 2, 2020
        - Special rules apply for seasonal businesses
    - (iii) has fewer than 300 employees
- (2) EIDL loan
  - A small business may be eligible for an EIDL loan if the business:
    - (i) has 500 or fewer employees;
    - (ii) meets the SBA's Small Business Size Standards by NAICS Industry; OR
    - (iii) is a private non-profit organization or a 501(c)(19) veterans organization

### **Loan Details**

- **Maximum amounts**
  - Advance: *[New]* \$10,000
    - A business that previously received an Advance less than \$10,000 can reapply to receive the difference
  - EIDL loan: \$2 million
- **Permitted uses:** working capital for fixed debts, payroll, accounts payable and other unpayable bills due to COVID-19
- **Prohibited uses:** refinance long-term debt; expand facilities; pay dividends or relocate; duplicate use of PPP funds
- **Not forgivable, but some EIDL loan amounts may be eligible to convert into a PPP loan**, which may be forgivable (see above)
- **Terms** of up to 30 years for EIDL loans with **automatic deferral of principal payments** for one year (interest begins to accrue upon loan disbursement)
- **Interest rate** of 3.75% (2.75% for nonprofits)
- **Collateral/Personal Guaranty:** no collateral required for EIDL loans of \$25,000 or less; if greater than \$25,000, collateral is required (general security interest in business assets may be sufficient); if greater than \$200,000, also need personal guaranty of individual with a 20% or greater ownership interest
- **Tax treatment:** *[New]* EIDL Advance may be excluded from income and expenses paid with EIDL Advance funds are tax-deductible

- **Record retention:** EIDL borrowers must keep records of how the EIDL loan is spent and provide this information to the SBA within 90 days after the loan is repaid

## **How to Apply**

- Complete [the SBA's application](#) for an EIDL loan as soon as possible *[New] or, if seeking an Advance, once the Advance program reopens (current target date of January 17, 2021)*
  - *[New] The deadline to apply for an EIDL Advance is currently December 31, 2021, but applications should be submitted as soon as possible as appropriated funds may be exhausted before that deadline*
  - As part of the application process, you will be required to certify that the business is eligible to apply for an EIDL loan
- Compile supporting documentation related to: EIN/SSN; gross revenue for past 12 months; cost of operations; and other compensation received, such as insurance claim payments, related to COVID-19

## **Contact Information**

For additional questions related to PPP loans or EIDL loans, you may contact the SBA's Coronavirus Customer Service Center at 1-800-659-2955 (TTY: 1-800-877-8339) or [DisasterCustomerService@sba.gov](mailto:DisasterCustomerService@sba.gov)