SBA Loans – What You Need to Know:

The SBA Economic Injury Disaster Loan (EIDL) and SBA 7(a) Relief Programs

Updated for Section 1110
03-30-2020
Agenda & Introduction

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SBA Economic Injury Disaster Loan (EIDL) Program

Working Capital Loans
Overview of SBA EIDL Program (Working Capital Loans)

**Who Is Eligible?**
- Small Businesses (≤ 500 employees)
- Small Agricultural Cooperatives
- Small Aquaculture Businesses
- Private Non-Profit Organizations

**To Be Eligible These Must:**
- Be specifically impacted by the disaster
- Have a “tangible” and “significant” physical presence in the disaster area

**To Be Approved These Must:**
- Have credit history acceptable to SBA
- Be deemed able to repay by SBA

**How Much Can I Borrow?**
- Up to $2 million with collateral
  - Real estate is preferred
  - Lack of collateral ≠ rejection
- Up to $25,000 unsecured
- Maximum Loan Period: ≤ 30 years

**Interest Rates:**
- For small businesses - 3.75%
- For Non-Profits – 2.75%

**Who is NOT Eligible**
- Agricultural Enterprises (Farms)
  - As defined in §18(b)(1) of the Small Business Act
- Religious Organizations
- Charitable Organizations
- Gambling Concerns
- Casinos, Racetracks, etc.

**Loan Conditions**
These working capital loans may be used to pay fixed debts, payroll, accounts payable, and other bills that could have been paid had the disaster not occurred. These loans are **NOT** to be used for revenue replacement or for expansion.
Overview of SBA EIDL Program (Cont’d)

**SBA EIDL Differentiators**
- EIDL funds come from U.S. Treasury
- Applications are handled directly by SBA’s Disaster Assistance Program
- Applicants do not go through a bank
- No cost to apply
- No obligation to take loan if offered
- No Prepayment Penalties
- Applicants with existing SBA disaster loans can qualify for EIDL for the current disaster, but the two loans cannot be consolidated

**To Apply**
- Visit the Online Portal: https://disasterloan.sba.gov/ela OR
- Send the application in via mail to:
  U.S. Small Business Administration,
  Processing and Disbursement Center,
  14925 Kingsport Road, Fort Worth, TX 76155.

**Note:** Ensure your application is COMPLETE before submitting. Missing information is THE biggest cause of delay

**Filing Requirements**
- Completed application (SBA Form 5)
- IRS Form 4506T for applicant, principals and affiliates.
- Complete copies of the most recent Federal Income Tax Return.
- SBA Form 2202 - Schedule of Liabilities
- Personal Financial Statement (SBA Form 413)

**Other Information That May be Requested:**
- Personal tax returns for all principals
- Year-End Financial Statements
- Current year-to-date Profit & Loss Statement
- SBA form 1368 (Monthly Sales Figures)*

* This is especially important for EIDL Loans

SBA Affiliation Rules Overview

- **General Principle of Affiliation:** Affiliation exists when one entity has the power to control another or when a third party (or parties) has the power to control both. Power to control may arise through ownership, management, or other relationships or interactions between the parties.
  - The exercise (or lack thereof) of this power is irrelevant. Its existence is the central issue.
  - This power may be positive (power to take action) or negative (power to prevent action).

- SBA will consider the totality of the circumstances, and may find affiliation even in the absence of a singular determining factor sufficient to constitute affiliation.

- SBA will consider all affiliates when determining the size of a concern at issue.
SBA Affiliation Rules Overview (Cont’d)

Vectors of “power to control” that are evaluated by SBA when considering questions of affiliation include:

1. Ownership
2. Stock Options or M&A Agreements
3. Common Management
4. Identicality of Interests
5. Newly Organized Concern Rule
6. Contractual Relationships or Economic Dependency
7. Joint Ventures
8. Prime Contractor-Subcontractor Dependency
9. Franchise License Agreement

Under certain circumstances, a judgement of affiliation may be contested and rebutted through presentation of evidence

Exceptions to the General SBA Rules on Affiliation (Non-Exhaustive List)

The SBA will not find affiliation if any of the following apply:

1. A Business that is wholly owned or substantially owned by investment or development companies that are licensed or qualified under the SBIA (1958), are not considered affiliates of those investment or development companies
2. Business is owned by Indigenous Peoples Organization i.e. Indian Tribes, ANOs, NHOs, CDCs
3. Business is part of SBA approved pool of concerns for a joint program of R&D or defense production
4. Business leases employees, or is a co-employer w/ a PEO
5. Mentor-Protégé pair under 8(a) will not be deemed affiliates based on this relationship alone
6. Agricultural Cooperative member-shareholders are not affiliated with the cooperative by virtue of membership
<table>
<thead>
<tr>
<th>Eligible Entity</th>
<th>Expanded Acceptable Loan Uses:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business with not more than 500 employees</td>
<td>• Providing paid sick leave to employees unable to work due to the direct effect of the COVID-19;</td>
</tr>
<tr>
<td>Any individual who operates under a sole proprietorship</td>
<td>• Maintaining payroll to retain employees during business disruptions or substantial slowdowns;</td>
</tr>
<tr>
<td>A cooperative with not more than 500 employees</td>
<td>• Meeting increased costs to obtain materials unavailable from the applicant’s original source due to interrupted supply chains;</td>
</tr>
<tr>
<td>An ESOP with not more than 500 employees</td>
<td>• Making rent or mortgage payments;</td>
</tr>
<tr>
<td>A tribal small business concern as described in Section 31(b)(2)(C) of the Small Business Act (15 U.S.C. 657a(b)(2)(C)), with not more than 500 employees.</td>
<td>• Repaying obligations that cannot be met due to revenue losses.</td>
</tr>
<tr>
<td>Private non profit organizations</td>
<td></td>
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<tr>
<td>Small agricultural cooperatives</td>
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<tr>
<td>Also includes during the covered period small business concerns, private nonprofit organizations, and small agricultural cooperatives who applied for the SBA 7(b)(2) EIDL loan</td>
<td></td>
</tr>
<tr>
<td>Covered Period: 1/31/20 – 12/31/20</td>
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</tbody>
</table>
### Modifications to EIDL Program in Response to COVID 19

- Waives personal guarantee for loans less than $200,000
- For loans greater than $200,000 personal guaranty and/or security
  - Real estate is preferred but doesn’t result in denial of application
- Waives the requirement that an applicant needs to be in business for 1 year before the disaster for businesses in operation prior to January 31, 2020.
- Waives the requirement that the applicant is not able to obtain credit elsewhere.
- For small dollar loans (not defined) provides that the administrator may:
  - Approve an applicant based solely on the credit score of the applicant and shall not require submission of a tax return OR
  - Use alternative appropriate methods to determine the applicant’s ability to repay
- Deferral of payments for the first 4-12 months, depending on the situation

### Emergency Grant

- During the covered period, allows an applicant for an SBA 7(b)(2) EIDL loan, can request an advance of $10,000 3 days after the administrator received the application.
- Before disbursing the advance the administrator will verify that the applicant is an eligible entity by accepting a self-certification from the applicant under penalty of perjury.
- Repayment of the advance is not required even if the applicant is denied a Section 7(b)(2) loan.
- If the applicant transfers into, or is approved for a Section 7(a) loan, the advance amount shall be reduced from the loan forgiveness amount for a loan for payroll costs made under Section 7(a).

**Covered Period:** 1/31/20 – 12/31/20
SBA 7(a) Program
## Overview of SBA 7(a) Program

### Who Is Eligible?
- Small Businesses
- Non-Profit Organizations - excluding those receiving Medicaid Expenditures
- Veteran’s Organizations
- Sole-Proprietors
- Independent Contractors
- Self-Employed Individuals

### How Much Can I Borrow?
- **7(a) Loan:** maximum amount is the lesser of
  - 2.5 x average monthly payroll costs for the year before the loan is made; Plus the outstanding EIDL loan balance made after January 31, 2020 and refinanced under 7(a)
  - Or $10,000,000
- **SBA Express Loan:** limit increased to $1,000,000 from $350,000 through 12/31/20

### Allowable Uses
- **Payroll support:**
  - Employee salaries
  - Paid sick or medical leave
  - Insurance premiums
- Payments of interest on mortgage obligations
- Rent
- Utility payments

### Considerations For Approval
- In operation on February 15, 2020
- Had employees for whom the borrower paid salaries and payroll taxes or paid an independent contractor
- Is affected by COVID-19
- Not more than the greater of:
  - 500 employees
  - Size standard in number of employees under SBA rules
- Business with not more than 500 people per physical location with an NAICS code beginning with 72 (Hospitality, Bars and Restaurants) are eligible
### Allowable Uses – Detailed View

<table>
<thead>
<tr>
<th>Covered Mortgage Obligation</th>
<th>Covered Rent Obligation</th>
<th>Utility Payments</th>
</tr>
</thead>
</table>
| ➢ Any indebtedness or debt instrument incurred in the ordinary course of business that –  
  ▪ Is a liability of the borrower;  
  ▪ Is a mortgage on real or personal property; and  
  ▪ Was incurred before February 15, 2020. | ➢ Any rent obligation under a leasing agreement in force before February 15, 2020 | ➢ Any payment for a service for the distribution of –  
  ▪ Electricity  
  ▪ Gas  
  ▪ Water  
  ▪ Transportation  
  ▪ Telephone  
  ▪ Internet Access  
  ➢ Service had to begin before February 15, 2020 |
Overview of SBA 7(a) Program (Cont’d)

<table>
<thead>
<tr>
<th>Loan Terms</th>
<th>Source of Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Loan Interest:</td>
<td>- SBA approved banks have the delegated authority to approve loans</td>
</tr>
<tr>
<td>- Not to exceed 4%</td>
<td>- Loans are 100% guaranteed from the federal government</td>
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<tr>
<td>- Loan Duration:</td>
<td></td>
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<tr>
<td>- For amounts not forgiven, 10 years from the date the borrower applies for loan forgiveness</td>
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<tr>
<td>- No prepayment fees</td>
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<tr>
<td>- Complete payment deferment for at least 6 months and not more than a year</td>
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<tr>
<td>- Borrower and lender fees are waived</td>
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<tr>
<td>- During covered period (2/15-6/30):</td>
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<tr>
<td>- Requirement that a small business concern is unable to obtain credit elsewhere doesn’t apply to this loan</td>
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<tr>
<td>- Collateral and personal guarantee requirements are waived under this program</td>
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<td></td>
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<tr>
<td><strong>Exclusion</strong></td>
<td></td>
</tr>
<tr>
<td>- Borrowers that have received a 7(b)(2) SBA Economic Injury Disaster Loan beginning on January 31, 2020 and ending on date covered loans are made available for the purposes of paying payroll costs and other obligations allowed under 7(a). Duplication Rule</td>
<td></td>
</tr>
</tbody>
</table>
### Loan Forgiveness

**Eligibility for Loan Forgiveness**

- Borrower is eligible for loan forgiveness of the amount spent during an 8-week period after the origination date of the loan on:
  - Payroll costs (excluding compensation above $100,000)
  - Interest payment on any mortgage incurred prior to February 15, 2020
  - Payment of rent on any lease in force prior to February 15, 2020
  - Payment on any utility for which service began before February 15, 2020.

- Limits on amount of forgiveness
  - Pay not exceed principal
  - Reduced by reduction in number of employees
  - Reduced by more than a 25% reduction of salary and wages

- Re-Hire Exception
  - If reduction occurred between February 15, 2020 and 30 days after enactment of bill, and the reduction has been eliminated by June 30, 2020.
### Included vs. Excluded Payroll Costs

#### Included Payroll Costs
- Salary or wage
- 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
- The sum of payments of any compensation to a sole proprietor or independent contractor that is a wage, commission, or similar compensation and that is in an amount that is not more than $100,000 in 1 year

#### Payroll Costs Excluded
- The compensation of an individual employee in excess of an annual salary of $100,000, as prorated for the covered period
- Taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code of 1986 during the covered period
- Any compensation of an employee whose principal place of residence is outside of the United States
- Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act
- Qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act
SBA 7(a) Application Process

**To Apply**

Visit the Online Referral Tool:
https://www.sba.gov/funding-programs/loans/lender-match

A free online referral tool that connects small businesses with participating SBA-approved lenders

**Process:**
1. Describe your needs
2. Get matched in 2 days
3. Talk to lenders
4. Apply for a loan

**Deadline To Apply: June 30, 2020**

**Filing Requirements**

- Documentation Needed:
  - Number of FTE's and pay rates
  - IRS payroll tax filings
  - State income, payroll, and unemployment insurance filings
  - Cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered rent obligations, and covered utility payments

- Certification from a representative of the eligible recipient authorized to make such certifications that:
  - Documentation is true and correct
  - Amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments
Waiver of Affiliation Rules

During the covered period, the provisions applicable to affiliations are waived with respect to eligibility for a covered loan for—

- Any business concern with less than 500 employees on the date of disbursal and is assigned an NAICS code beginning with 72 (Hospitality, Bars and Restaurants)
- Any business operating as a franchise that is assigned a franchise identifier code by the administration
- Any business concern that receives financial assistance from a company licensed under section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681)