

# Small Business & Nonprofit SBA Programs Available with the Impacts of COVID-19

Thoughtware Alert

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*The information in this article is current as of March 28, 2020.*

COVID-19 Alert



Cash is king and when cash inflows suddenly dry up, businesses and nonprofits are forced to make difficult decisions. This is especially relevant in today's environment of recommended social distancing, isolation and various governmental "stay-at-home" mandates. As previously referenced in a previous **BKD Thoughtware® article**, the U.S. Small Business Administration (SBA) has a working capital loan program specific to presidentially declared disaster areas known as an Economic Injury Disaster Loan (EIDL).

## **Economic Injury Disaster Loan**

The SBA's EIDL program is available to small businesses, small agricultural cooperatives, small aquaculture businesses and most private nonprofit organizations that have been directly affected by the SARS-CoV-2 virus and the incidence of COVID-19 (COVID-19) pandemic. Agricultural enterprises are not eligible for disaster assistance through the SBA; instead, these businesses are encouraged to use emergency loan programs provided by the Farm Service Agency through the USDA. An EIDL is administered directly with the SBA and provides up to \$2 million in working capital to pay (among other things) accounts payable, payroll, debt obligations and other expenses that cannot be paid due to the effects of the declared disaster. The loan amount, collateral requirements and length of repayment are evaluated based on each business' credit history, current need and ability to repay.\* The interest rate is capped at 3.75 percent for small businesses and 2.75 percent for nonprofits while loan terms are offered up to 30 years.

*\*See note later in article regarding lessening of EIDL underwriting standards through provisions included in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Because of this, the SBA is encouraging businesses and private nonprofits affected by COVID-19 to apply online as soon as possible for a loan through the EIDL program.*

*Additional items to consider:*

- ▼ Is your business an **eligible small business in your industry?**

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- ▼ There is no application fee or prepayment penalty associated with an EIDL.
- ▼ Current guidance from the SBA indicates applications will be processed, approved and funded within three to four weeks. Short-term conventional financing obtained during this interim period may be eligible to be refinanced with the EIDL proceeds.
- ▼ If approved, the borrower can request additional funding if the initial loan amount is not enough to cover the actual economic injury.
- ▼ Recent guidance indicates the SBA has suspended the requirement of taking real estate as collateral. Other collateral, if available, may still be required to be pledged.
- ▼ Loan payment deferral is available for up to 12 months.
- ▼ Applying for the loan and accepting the loan are mutually exclusive.
  - ▼ As such, businesses should consider applying for the loan as soon as possible to place your application in the queue.
  - ▼ The SBA is not in competition with any other program. Businesses can choose to accept this loan and/or find alternative funding options, including other SBA loans.
- ▼ Be prepared to provide accurate and timely information. The SBA is experiencing a high volume of applications and recommends **applying directly through its website.**

### ***Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Provisions***

On March 27, 2020, President Trump signed the CARES Act into law. Although the CARES Act includes significant tax, unemployment insurance and health-related provisions, this article will address the provisions affecting SBA loan programs available to small businesses and nonprofits.



- ▼ The CARES Act provides the following changes to the EIDL program, available through December 31, 2020:
  - ▼ The CARES Act expands the definition of an eligible entity to include individuals who operate as a sole proprietorship, with or without employees, or as an independent contractor and any business, cooperative, ESOP or tribal small business concern with not more than 500 employees.
  - ▼ Personal guarantees are not required for advances and loans of up to \$200,000.
  - ▼ The requirement that applicant needs to have been in business for at least one year prior to the disaster is waived; however, the applicant is required to have been in operation on January 31, 2020.
  - ▼ The CARES Act waives the requirement that applicant be unable to obtain credit elsewhere.
  - ▼ The applicant may be approved based solely on credit score or an alternative method to determine repayment ability.
  - ▼ The applicant can request an advance of up to \$10,000 to be funded within three days of application submission. The applicant must self-certify that they are an eligible entity for the EIDL program. The advance is not required to be paid back, even if ultimately denied an EIDL. However, if the applicant is approved for a loan under the Paycheck Protection Program (PPP), this advance will reduce the amount of allowable loan forgiveness. It is unknown at this time how this provision will be administered.
- ▼ The CARES Act increases the amount available through SBA Express Loans from \$350,000 to \$1 million through December 31, 2020.
- ▼ The CARES Act expands the SBA 7(a) loan program to include the PPP:
  - ▼ PPP loans are available to any business concern, 501(c)(3) nonprofit, veterans' organization and tribal business that employs



not more than the greater of 500 employees or applicable size standard as provided by the SBA. The program is also available to sole proprietors, independent contractors and self-employed individuals.

- ▼ The 500-employee ceiling is evaluated per physical location for business concerns with multiple locations and a North American Industry Classification System (NAICS) code beginning with 72 (Hospitality and Food Services).
- ▼ In addition, the affiliation rules are waived for business concerns with this same NAICS code and certain franchises.
- ▼ The loan amount is determined as the lesser of two and a half times the average monthly payroll costs during the previous 12 months or \$10 million.
  - ▼ Allowable uses of the loan proceeds include payroll costs, rent, mortgage or other debt interest and utilities.
  - ▼ Loans are 100 percent guaranteed by the SBA—no personal guarantee is required.
  - ▼ There is a payment deferral of not less than six months and no prepayment penalty.
  - ▼ Loan amounts that are not forgiven have a maximum maturity of 10 years with an interest rate capped at 4 percent.
- ▼ These loans are eligible for forgiveness to incentivize employee retention and the reduction of wages by less than 25 percent when compared to the prior quarter.
  - ▼ To be eligible for forgiveness, loan proceeds must be used for allowable items as noted above.
  - ▼ The forgiveness calculation is based in part on the employers' ability to employ average full-time equivalents per month during the eight-week period after loan origination as compared to the average full-time equivalents per month Supermarket ▶

during the 02/15/2019 to 06/30/2019 period; however, applicants can elect to substitute the monthly average full-time equivalent count from the 2019 period to the 01/01/2020 to 02/29/2020 period.

- ▼ Forgiveness is further reduced if the employer reduces wages during the eight-week period after loan origination in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter prior to origination.
- ▼ To help mitigate the portion that would not be eligible for forgiveness, there is a rehire exemption and provision for tipped workers available.
- ▼ Documentation to support the amount of forgiveness will be required from the applicants seeking forgiveness.
- ▼ Correlation with other provisions of CARES Act
  - ▼ Acceptance and receipt of the PPP loan eliminates the applicant's eligibility to obtain employee retention credits as made available in a separate provision of the CARES Act.
  - ▼ In addition, should any PPP indebtedness be forgiven, the delayed payments options for the employer's share of payroll taxes will not be available to the applicant.
- ▼ Unlike the EIDL, the funding of this loan is not directly through the SBA; instead, applicants will apply directly through financial institutions as determined by the U.S. Department of the Treasury.

The CARES Act includes other potential tax incentives as noted in this **BKD Thoughtware article** and discussed in this recent **BKD webcast**.

Many of these developments continue to quickly evolve. Reach out to your **BKD Trusted Advisor™**, submit the Contact Us form below or visit our **COVID-19 Resource Center** for current information as needed.

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In addition, be sure to attend our **April 2 webinar**, which will cover these topics: SBA loan programs, payroll tax credits and general business planning considerations

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