

Economic Injury Disaster

Comparison between SBA Economic Injury Disaster Loans (EIDL) and SBA Paycheck Protection Program Loans (PPP)

CAVEAT

- The CARES Act calls for regulatory guidance within 15 days of enactment for all of Title I (i.e. the majority of the pertinent SBA loan provisions), but 30 days for the PPP loan forgiveness section (§1106).
- There are inconsistencies/ambiguities that may be subject of a corrections bill.

This is a summary document only, and does not address all of the nuances of the PPP loan and EIDL programs. Particularly with respect to loan eligibility determinations, individual analyses of potential applicants are nuanced and fact-specific, and may involve additional factors not addressed here.

EIDL	PPP
How much is available (what is the maximum loan amount)?	
\$2 million, with an advance of up to \$10,000 disbursed within 3 days of SBA's receipt of the application.	The lesser of (a) \$10 million or (b) 2.5x the average monthly "payroll costs," measured over the 12 months preceding the loan origination date. Seasonal business may use the monthly average for the 12-week period beginning February 15, 2019 or March 1, 2019 – June 30, 2019 to calculate the average payroll. Businesses not in existence between February 15, 2019 and June 30, 2019 can use the monthly average for the period January 1 2020 – February 29, 2020. <ul style="list-style-type: none">• If you took out the EIDL loan between January 31, 2020 and the date the PPP loan becomes available and you want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the "payroll" sum.• Payroll includes salaries, commissions, tips, certain employee benefits (including health insurance and retirement benefits), state and local taxes and certain types of compensation to sole proprietors or independent contractors.

EIDL	PPP
Who Can Apply?	
<p>Small businesses (as defined under the SBA size standards for industry NAICS codes based on average number of employees and average annual receipts), private non-profit organizations, or small agricultural cooperatives. Small business applicants must include their affiliates in determining eligibility under the size tests. In other words, employees and receipts of other businesses under common control will count toward the maximum number of permitted employees or receipts for eligibility purposes of an applicant. Generally, the applicant cannot have more than 500 employees.</p> <p>In addition, the following “eligible entities” can apply:</p> <ul style="list-style-type: none"> • businesses, cooperatives, ESOPs or Tribal small business concerns with not more than 500 employees; • sole proprietorships (with or without employees); and • independent contractors. 	<p>Small businesses qualifications similar to EIDL plus any business concern, nonprofits, veterans organizations or Tribal business concerns, sole proprietors, independent contractors and eligible self-employed with no more than 500 employees (or greater if the SBA size determination under the NAICS code is higher). (Here)</p> <ul style="list-style-type: none"> • Expanded eligibility for Restaurants, Hotels and other Hospitality businesses (NAICS codes starting with 72): number of employees is not more than 500 per physical location • Waiver of Affiliation Rules: the SBA requirement that generally compels the employee size count to include other entities in a control group is waived for: <ul style="list-style-type: none"> – AICS code 72 businesses of not more than 500 employees. – Approved franchisees found on the SBA directory. (Here) – Any entity that receives financial assistance from an SBIC (a Small Business Investment Company licensed and regulated by the SBA).
Approved Fund Uses	
<p>Working capital needs, including financial obligations and operating expenses, which could have been met had the disaster not occurred.</p>	<p>Payroll costs (as defined above), group healthcare benefits, insurance premiums, and interest (but not principal) on mortgages or other secured debt incurred prior to February 15, 2020, rent on any lease in force prior to February 15, 2020 and utility payments.</p>
Interest Rate (annual)	
<p>3.75% for businesses, 2.75% for non-profits.</p>	<p>Not to exceed 4%.</p>
Loan Term	
<p>Up to 30 years.</p>	<p>Up to 10 years.</p>
Collateral and Personal Guaranty Requirements	
<p>Personal guaranty on advances and loans of not more than \$200,000 are not required.</p>	<p>No collateral is required from either the business or its owners. No personal guaranty requirements.</p>

EIDL	PPP
Loan Forgiveness	
<p>None.</p> <p>However, if you obtain an advance in connection with an EIDL application, and also obtain a PPP loan, the advance (of up to \$10,000) will be deducted from the PPP loan forgiveness amount.</p>	<p>Yes – potential forgiveness for 8 weeks of operating expenses incurred for the approved uses (but not to exceed the principal PPP loan amount). Interest accrued on the forgiven portion is paid by the SBA.</p> <p>The amount forgiven may be reduced proportionately with reductions in full time employee equivalents (FTEs) or reductions in salary or wages for such FTEs, unless the FTEs and salary or wages are returned to the February 15, 2020 level by June 30, 2020.</p>
Loan Forgiveness	
<p>One year after the loan origination date (interest is accrued during the deferment).</p>	<p>At least six months after the loan origination date and up to one year (interest is accrued during the deferment).</p>
Lender	
<p>SBA</p>	<p>An SBA approved bank or other lending institution (underwritten by SBA).</p>
How to apply	
<p>Application forms can be obtained and submitted through the SBA website, here.</p>	<p>Borrowers must submit applications to SBA approved lenders. (Most active lenders here.) While small businesses can apply for regular SBA 7(a) loans now, we believe the SBA Lenders are not likely yet taking applications for the PPP loans. However, we have heard the lenders are gearing up to do so. Our strong recommendation is that clients contact their existing lenders with whom they have relationships to find out if they are SBA lenders already and introduce them to the right people internally at the bank.</p>