

The Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) SBA Loan Options

Traditional SBA 7(a) Loan Program

Section 7(b) Economic Injury Disaster Loan (EIDL), with Notes Regarding Certain CARES Act Modifications

CARES Act Paycheck Protection Program (PPP) 7(a) Loan Program

Limits and Payment Terms			
	<p>Limits for 7(a) guaranteed loans (most common SBA loan which has been expanded under the CARES Act):</p> <p>Maximum: Up to \$5 million (average about \$425,000).</p> <p>Term: Working capital loans generally up to 7 years. Real estate or construction loans may be for up to 25 years. Other SBA loans are generally for 10 years.</p> <p>Type of loan: Provided by SBA-approved lender.</p> <p>In addition to the above, there is the SBA Express Loan Program (maximum \$350,000), Patriot Express Loans (for veterans and members of the military community), SBA Microloan Program (loans from \$500 to \$50,000), Export Working Capital loans (90% SBA guaranty for a loan up to \$4.5 million), and CAPLines (requires holders of 20% ownership interest to guarantee the loan).</p>	<p>Up to \$2 million; provided that (i) the foregoing cap is subject to waiver if the applicant is a “major source of employment” (generally available to employers accounting for a significant percentage of the employment in a given community), and (ii) the loan amount is limited to amount of the actual injury, as determined by the SBA (subject to increase upon post-funding re-examinations requested by borrower within two years of closing).</p> <p>Term: Up to 30 years with 3.75% interest (qualified businesses) and 2.75% (non-profit).</p> <p>Type of loan: Direct and indirect loans</p> <p>Assists qualified businesses affected by a disaster (COVID-19 for example) to meet working capital needs or normal business operating expenses through the recovery period.</p> <p>Special Note-The CARES Act created an EIDL Emergency Grant that provides that an eligible entity that applied for an EIDL loan can request an advance “emergency grant”, not to exceed \$10,000 within 3 days after SBA receives the application. If the grant is used for eligible expenses (including but not limited to paid sick leave, maintaining payroll, mortgage/rent, supply chain costs) no payback necessary.</p>	<p>The lesser of \$10 million and 2.5 times the average monthly payroll costs for the one-year period before the loan is made for the applicable borrower.</p> <p>Maximum for SBA Express loans: Up to \$1 million through December 31, 2020, and up to \$350,000 after December 31, 2020.</p> <p>Term: The maximum maturity date is 10 years, with an interest rate not to exceed 4%. The CARES Act allows for deferment relief for these loans for between 6 months to 1 year.</p> <p>Type of loan: Authority to approve delegated to pre-approved existing SBA lenders.</p>

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General Eligibility Requirements for SBA Loans	<p>The borrower must be a small business or a private non-profit organization.</p> <p>The SBA applies general principles of affiliation to determine whether a concern qualifies as small. This is a highly specific analysis pursuant to 13 CFR 121.103 and 121.301. Applicants should be familiar with their primary NAICS Code, and have, at a minimum, the following documents available to complete an analysis:</p> <ul style="list-style-type: none"> ➤ Employee count inclusive of full time, part time or other basis ➤ Business tax returns (previous three years) ➤ Ownership structure ➤ Originating corporate documents <p>To determine the size of the borrower, the SBA generally counts the annual receipts or employees of affiliates under an applicant’s NAICS code (i.e., if the SBA determines that the portfolio companies of a particular private equity sponsor are affiliates, the annual receipts/employees of each of the sponsor’s portfolio companies will be aggregated). The SBA looks at whether an entity is controlled (through ownership, management, or another relationship) by another entity to determine if affiliation exists. We note the CARES Act waives these affiliation rules for businesses under NAICS 72 (accommodation and food service) and business concerns with under 500 employees that would otherwise be large based on revenue. As a result, individual qualifying portfolio companies under a single sponsor/fund can each apply for these loans.</p> <p>(See the SBA website for more information on what is considered a small business and see Requirements Section below regarding the different treatment under the CARES Act).</p> <p>The borrower’s affiliates and principal owners (i.e. persons who own 20% or more of its ownership interests) have used all reasonably available funds and the borrower is unable to obtain credit elsewhere on reasonable terms. Note that the CARES Act waives the “credit elsewhere” requirement for all loans under the PPP 7(a) and EIDL programs.</p>		
Eligibility Requirements for Specific SBA Loans	<p>The following are not eligible for SBA loans:</p> <ul style="list-style-type: none"> ➤ Businesses seeking a loan to pay off inadequately secured creditors ➤ Businesses engaged in speculation, lending, investment, or rental real estate and 	<p>The requirements for getting a loan include submitting the following documents:</p> <ul style="list-style-type: none"> ➤ Streamlined 3-page application comprised of (1) Business Loan Application (Form 5 or 5C) and (2) the Economic Injury Disaster Loan Supporting Information form. This streamlined process was implemented 	<p>The CARES Act provides for an expanded small business loan eligibility for purposes of obtaining a 7(a) loan. Accordingly, the following businesses could also be considered a small business:</p> <ul style="list-style-type: none"> ➤ Individuals operating as a sole proprietorship, as independent contractors

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➤ nonprofit enterprises (except employee stock ownership programs).
SBA Form 1919 and SBA Form 1920 must be provided as part of the application along with a number of other documents.

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by the SBA to allow for more efficient and rapid application processing after the initial influx of applications.

➤ Application must be signed by each applicant, each principal owning 20% or more of the applicant business, each general partner or managing member; and, for any owner who has greater than 50% ownership in an affiliate business.

The SBA may request additional information, including:

- complete copies of federal income tax returns for the applicant business;
- personal financial statements (SBA Form 413D) completed by the applicant, each principal owning 20% or more of the applicant’s business, and each general partner or managing member; a schedule of liabilities listing all fixed debts (SBA Form 2202 may be used); and
- a fee disclosure (SBA Form 159D), if applicable.
- For “small dollar loans”, applications can be approved on credit scores alone.

You may [download the forms](#) from the SBA website.

➤ Similar to PPP, CARES Act expands allowable uses of EIDL loan proceeds to include payroll support, such as paid

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or eligible self-employed individuals; and

➤ Certain accommodation and food service businesses that (i) have a NAICS Code under Sector 72 (“72 Businesses”) and (ii) do not employ more than 500 employees per physical location.

The affiliation rules (discussed above in the Eligibility Section) are also waived for the following: (i) 72 Businesses with less than 500 employees; (ii) businesses operating as a franchise (must have an assigned franchise identifier code); and (iii) any business that receives assistance from a Small Business Investment Company investor.

Expands allowable uses of 7(a) loans to include payroll support, such as paid sick or medical leave, employee salaries, mortgage payments, rent, utilities, and interest on any debt obligations incurred prior to the covered period.

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		sick or medical leave, employee salaries, mortgage payments, rent, utilities, and interest on any debt obligations incurred prior to the covered period.	
Can be combined with	EIDL Loan (provided that it is not used for the same purpose of the 7(a) loan).	Standard 7(a) Loan <u>or</u> PPP 7(a) Loan	Standard 7(a) loan if obtained before 2/15/2020; <u>and</u> EIDL Loan (provided it is not used for the same purpose of the 7(a) loan)
Interest Rates (actual rates may vary)	Rates depend on loan amount and maturity (ranging from prime + 2.25% to prime + 2.75%).	3.75% for for-profit businesses and 2.75% for non-profits	Under 4%
Collateral / Personal Guarantees	SBA expects all available company assets to be offered as collateral. If such collateral is insufficient, liens on personal assets may be required. Personal guarantees from 20%+ owners required for all loans.	Collateral is required for loans over \$25,000. Personal guarantee requirement waived for EIDL loans that are less than \$200,000, but remains intact for EIDL loans of \$200,000 or more: ➤ Individuals who own 20% or more must provide an unlimited personal guaranty; ➤ Corporate/Other Guaranties: All entities that own 20% or more must provide an unlimited full guaranty; If no one individual or entity owns 20% or more, at least one of the owners must provide a full unconditional guaranty.	No personal guaranty and no collateral are required for the covered loans
SBA Guaranty	SBA guarantees up to 85% for loans equal to or less than \$150,000 and 75% for loans	SBA guarantees up to 85%.	CARES Act increases the SBA guaranty to 100% through December 31, 2020.

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Other Key Terms	<p>exceeding \$150,000.</p> <p>There are additional fees for these loans, including a fee from the SBA for its guaranty and general fees for the lender depending on the maturity date.</p>	<p>In order to apply for a loan, first an Economic Injury Disaster Loan assistance declaration must be made covering the applicable state. To date, every state, the District of Columbia, and all U.S. territories have declared such due to COVID-19.</p> <p>All borrower fees have been waived for EIDL loans under the CARES Act.</p>	<p>The CARES Act provides a process by which borrowers who receive this loan could be eligible for loan forgiveness in an amount equal to the payroll cost (subject to certain limitations, such as excluding salaries in excess of \$100,000/year, and needing to be spent within 8 weeks of receiving funding), any payment of interest on certain mortgage obligations, certain rent obligations, and certain utility payments for the 8-week period following the date of the loan. The amount of the loan eligible for forgiveness will be reduced proportionally by the number of employees laid off during this period relative to the borrower’s prior employment levels.</p> <p>All borrower and lender fees have been waived for PPP 7(a) loans under the CARES Act.</p>
Application link	<p>Find a lender offering standard SBA.</p>	<p>Apply for a SBA disaster loan.</p>	<p>Pending: Congress has mandated the SBA produce implementing regulations within 15 days of passage</p>

Please see [the SBA website](#) for additional *Small Business Guidance & Loan Resources*