

Small Business Assistance

COVID-19

March 27, 2020



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CARES Act Fiscal Stimulus Package

Current Information on the Payment Protection Program – an extension of the SBA 7(a) loan program. SBA guidance and rules on how lenders can implement the program are pending.

March 27, 2020

M&T Bank

CARES Act

Paycheck Protection Program (PPP) – Who can help?

Who can make these loans?

Lenders with delegated authority from SBA, which allows Lenders to determine eligibility and credit worthiness without going through SBA channels. M&T is an SBA Lender with delegated authority.

How will banks evaluate the eligibility of borrower under the PP Program?

A Lender must consider whether the borrower:

- Was in operation on February 15, 2020; and
- had employees for whom the borrower paid salaries and payroll taxes OR paid independent contractors, as reported on a Form 1099-MISC

When is the application period?

- February 15, 2020 through June 30, 2020

CARES Act

Paycheck Protection Program (PPP) – Size Requirements

Beginning on February 15, 2020 and ending on June 30, 2020, in addition to small business concerns, any business concern, non-profit organization, veterans organization, individuals who operate as sole proprietors or independent contractors, eligible self-employed individuals, or Tribal small business concern is eligible to receive a covered loan if they ***employ not more than the greater of—***

- 500 employees; or
- if applicable, the SBA size standard for employees in the industry in which the borrower operates (NAICS code)

The term employee includes individuals employed on a full-time, part-time or other basis.

- For business concerns with more than 1 physical location (e.g. food services industry), the 500 employees can be measured per physical location.

CARES Act

Paycheck Protection Program (PPP) – Maximum Loan Amount

The maximum loan amount under the PP Program is **the lesser of:**

- the **average total monthly payments** by the applicant for **payroll costs** incurred during the 1-year period before the date on which the loan is made **multiplied by 2.5***;
- plus the outstanding amounts of any Emergency Injury Disaster Loan (EIDL) obtained on or after January 31, 2020 which is to be refinanced under this loan;
OR
- \$10,000,000

***Special rules exist for seasonal employers and businesses not in existence beginning 2/15/2019 and ending on 6/30/2019.**

CARES Act

Paycheck Protection Program (PPP) – Maximum Loan Amount

Payroll Costs include the sum of payments of any compensation with respect to employees that is a:

- salary, wage, commission, or similar compensation;
- payment of cash tip or equivalent;
- payment for vacation, parental, family, medical or sick leave;
- allowance for dismissal or separation;
- payment required for the provision of group health care benefits, including insurance premiums;
- payment of any retirement benefits; or
- payment of state or local tax assessed on the compensation of employees;
- the sum of payments of any compensation to or income of a **sole proprietor or independent contractor** that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount not exceeding more than \$100,000 in 1 year, as prorated for the period beginning on February 15, 2020 and ending on June 30, 2020.

CARES Act

Paycheck Protection Program (PPP) – Maximum Loan Amount

Payroll Costs do **NOT** include:

- the compensation of an individual employee's in excess of an annual salary of \$100,000 as prorated for the period beginning on February 15, 2020 and ending on June 30, 2020;
- taxes imposed or withheld under FICA (Social Security and Medicare), Railroad Retirement Act, and IRC Chapter 24 (income tax at source);
- any compensation of an employee whose principal place of residence is outside the United States;
- qualified sick leave or family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.

CARES Act

Paycheck Protection Program – Use of Loan Proceeds

- Between February 15, 2020 and ending on June 30, 2020, the eligible recipient can use the proceeds from the loan for:
 - payroll costs;
 - costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
 - employee salaries, commission, or similar compensations;
 - payments of interest on any mortgage obligation (excludes prepayment);
 - rent (including rent under a lease agreement);
 - utilities; and
 - interest on any other debt obligation that were incurred before the period.

CARES Act

Paycheck Protection Program – Good Faith Certification Requirements

An eligible recipient applying for a covered loan must make a good faith certification that:

- the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
- acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
- that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and
- during the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.

CARES Act

Paycheck Protection Program – Requirements & Fees

Nonrecourse

The administration has no recourse against any individual shareholder, member, or partner of an eligible recipient of a covered loan for nonpayment of any covered loan UNLESS it is used for a purposes not authorized.

No Guarantee

Between February 15, 2020 and ending on June 30, 2020, no personal guarantee is required for the covered loan AND no collateral is required for the cover loan.

No Fees

Between February 15, 2020 and ending on June 30, 2020, with respect to covered loan, the Administrator will not collect a fee.

CARES Act

Paycheck Protection Program – Deferral of Payment

Between February 15, 2020 and ending on June 30, 2020, the Administration provides complete payment deferment relief for impacted borrowers with a loan for a period of not less than 6 months and not more than 1 year.

- This includes the payment of principal, interest, and fees

An impacted borrower is an eligible recipient who is in operation on February 15, 2020 and has an application for covered loan that is approved or pending after the date of enactment.

CARES Act

Paycheck Protection Program – Loan Forgiveness

An individual or entity that is eligible to receive a covered loan is eligible for forgiveness of indebtedness on that loan in an amount equal to the sum of the following costs incurred and payments made during **the 8-week period beginning on the date of the origination of a covered loan:**

- payroll Costs (reference definition above);
- any payment of interest on any covered mortgage obligation
 - 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 2/15/2020;
- any payment of a rent obligation made under a leasing agreement in force before 2/15/2020;
- any utility payment related to the distribution of electricity, gas, water, transportation, telephone or internet access for which service began before 2/15/2020.

CARES Act

Paycheck Protection Program – Loan Forgiveness Documentation Requirements

The following must be provided to the Lender:

- documentation verifying the number of full time equivalent employees on payroll and pay rates including payroll tax filings reported to the IRS and State income, payroll, and unemployment insurance filings;
- documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments.
- certification from a representative of the eligible recipient authorized to make such certifications that:
 - the documentation presented is true and correct; AND
 - 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;
- any other documentation the administrator determines is necessary.

No eligible recipient shall receive forgiveness without submitting to the lender that is servicing the covered loan the documentation required.

CARES Act

Paycheck Protection Program – Loan Forgiveness Timeframes

Timing of Loan Forgiveness Decision:

No later than **60 days** after the date on which a lender receives an application for loan forgiveness from an eligible recipient, the lender will issue a decision on the application.

Taxability

Any amount would be includible in gross income of the eligible recipient by reason of forgiveness is excluded from gross income.

CARES Act

Paycheck Protection Program – Reduction of Loan Forgiveness

- The amount of loan forgiveness may be reduced if there is a reduction in full time equivalent employees when comparing to the average number of full time equivalent employees per month employed by the eligible recipient during the period beginning February 15, 2019 and ending on June 30, 2019 OR January 1, 2020 and ending on February 29, 2020.
- Reductions also exist for certain reductions in total salary or wages of any employees in excess of 25 percent.
 - Employees in this instance refer to employees who in 2019 did not receive a wage or salary at an annualized rate more than \$100,000.
- Special rules for tipped workers and rehires during a certain time period.

Economic Injury Disaster Loan (EIDL)

SBA Program

M&T Bank

SBA's Economic Injury Disaster Loan

The Basics

What businesses are eligible to apply?

SBA's Economic Injury Disaster Loans (or working capital loans) are available to small businesses, small agricultural cooperatives, small aquaculture businesses and most private non-profit organizations

This includes:

- Businesses directly affected by the disaster
- Businesses that offer services directly related to the businesses in the declaration
- Other businesses indirectly related to the industry that are likely to be harmed by losses in their community (Example: Manufacturer of widgets may be eligible as well as the wholesaler and retailer of the product.)

SBA's Economic Injury Disaster Loan

The Basics

What is the criteria for a loan approval?

Credit History - Applicants must have a credit history acceptable to SBA.

Repayment - SBA must determine that the applicant business has the ability to repay the SBA loan.

Eligibility - The applicant business must be physically located in a declared county and suffered working capital losses due to the declared disaster, not due to a downturn in the economy or other reasons.

SBA's Economic Injury Disaster Loan

The Basics

How much can I borrow?

Eligible entities may qualify for loans up to \$2 million.

The interest rates for this disaster are 3.75% for small businesses and 2.75% for nonprofit organizations with terms up to 30 years.

Eligibility for these working capital loans are based on the size (must be a small business) and type of business and its financial resources.

How can I use the loan funds?

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. The loans are not intended to replace lost sales or profits or for expansion.

SBA's Economic Injury Disaster Loan

Collateral Requirements

What are the collateral requirements?

- Economic Injury Disaster Loans over \$25,000 require collateral.
- SBA takes real estate (commercial & residential) as collateral when it is available.
- SBA will not decline a loan for lack of collateral, but requires borrowers to pledge what is available.

SBA's Economic Injury Disaster Loan

Ineligible Entities

What are some of the businesses that are ineligible for an Economic Injury Disaster Loan?

- **Agricultural Enterprises** - If the primary activity of the business (including its affiliates) is as defined in Section 18(b)(1) of the Small Business Act, neither the business nor its affiliates are eligible for EIDL assistance
- **Religious Organizations**
- **Charitable Organizations**
- **Gambling Concerns** - (Ex: Concerns that derive more than 1/3 of their annual gross revenue from legal gambling activities)
- **Casinos & Racetracks** (Ex: Businesses whose purpose for being is gambling (e.g., casinos, racetracks, poker parlors, etc.) are not eligible for EIDL assistance regardless of 1/3 criteria above.
- **Real estate developers** - establishments primarily engaged in subdividing real property into lots and developing it for resale on their own account.

SBA's Economic Injury Disaster Loan

About the Process

- SBA's Economic Injury Disaster Loan (EIDLs) funds come directly from the U.S. Treasury.
- Applicants **do not** go through a bank to apply. They apply directly to SBA's Disaster Assistance Program at: disasterloan.sba.gov/ela
- There is no cost to apply
- There is no obligation to take the loan if offered
- The maximum unsecured loan amount is \$25,000
- Applicants can have an existing SBA Disaster Loan and still qualify for an EIDL for this disaster, but the loans cannot be consolidated

SBA's Economic Injury Disaster Loan

About the Process

SBA's Customer Service Representatives are ready to serve.

Applicants may apply online using the Electronic Loan Application (ELA) via SBA's secure website at <https://disasterloan.sba.gov/ela>.

Paper loan applications can be downloaded from www.sba.gov/disaster. Completed applications should be mailed to:

U.S. Small Business Administration
Processing and Disbursement Center
14925 Kingsport Road
Fort Worth, TX 76155

Disaster loan information and application forms may also be obtained by calling the SBA's Customer Service Center at 800-659-2955 (800-877-8339 for the deaf and hard-of-hearing) or by sending an email to disastercustomerservice@sba.gov.

SBA's Economic Injury Disaster Loan

Assistance from SBA Partners

Free assistance with reconstructing financial records, preparing financial statements, and submitting the loan application is available from any of SBA's partners:

- 1) Small Business Development Centers (SBDCs)
- 2) SCORE
- 3) Women's Business Centers (WBC)

For the nearest office, visit: <https://www.sba.gov/local-assistance>

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