

CARES Act expands access to loans for small and midsize businesses

The Coronavirus Aid, Relief and Economic Security (CARES) Act signed into law on Friday, March 27, provides various options for small and midsize businesses facing liquidity challenges from the COVID-19 crisis.

Option one: U.S. Small Business Administration (SBA) Economic Injury Disaster Loan Assistance (EIDL) program

The Coronavirus Preparedness and Response Supplemental Appropriations Act enacted on March 6 expanded the U.S. Small Business Administration (SBA) Economic Injury Disaster Loan Assistance (EIDL) program to provide SBA loans to qualified small businesses.

Amount available

Qualifying business can receive up to \$2 million in loans to be used for working capital and ordinary expenditures. The actual amount available to any business is tied to its economic injury from COVID-19.

Rates

Interest rates are 3.75% for small businesses and 2.75% for not-for-profit organizations. EIDL loans are not forgivable.

Eligibility

An eligible small business is determined by the number of employees and average annual sales, with different standards per industry. Most manufacturing companies with 500 or fewer employees and most non-manufacturing businesses with average annual receipts under \$7.5 million can qualify. There are exceptions by industry.

Loans under this program are available to borrowers that can show they are unable to meet their existing financial obligations as a result of the COVID-19 crisis. Cannabis businesses, casinos and racetracks are among the businesses that are not eligible.

How to apply

EIDLs are [applied for directly with the SBA](#) and funded by the SBA.

Option two: Paycheck Protection Program (PPP)

The Paycheck Protection Program created through the Coronavirus Aid, Relief and Economic Security Act (CARES Act) expands SBA support for businesses with loans of up to \$10 million. This program is administered by the SBA through its 7(a) lending program under which the SBA guarantees loans made by banks to qualifying borrowers.

Amount available

Businesses that have been in existence for at least a year can obtain the lesser of 2.5 times their average monthly payroll for the previous 12 months, plus any amount refinanced from the Economic Injury Disaster Loan (EIDL) assistance OR \$10 million. Entities not in existence for the previous 12 months can use their average monthly payroll for the period from January 1, 2020, through February 29, 2020. Funds can be used to cover payroll costs or employee benefits, operating costs and interest on debt obligations. Funds cannot be used to compensate individual employees at an annual rate above \$100,000, or to pay for emergency sick or family leave under the second coronavirus response package (Public Law 116-127).

Rates

Loans shall bear interest at a rate not to exceed 4%. For loans issued through June 30, 2020, payments of both principal and interest will be deferred for a minimum of six months and a maximum of one year.

Provided a company retains existing employees at or near current salary levels, the debt will be forgiven to the extent that proceeds are used in an eight-week period following loan origination for the following:

- Payroll costs and interest payments made on any mortgage incurred prior to February 15, 2020;
- Payment of any lease in force prior to February 15, 2020; and
- Payment on any utility for service before February 15, 2020.

The amount forgiven will be reduced by a formula that takes into consideration any reduction of workforce or wages. Certain documentation is required to be retained, provided as proof and certified to include with an application for loan forgiveness as detailed in Section 1106(e).

Eligibility

Eligible recipients must meet one of the following requirements:

- 500 employees or fewer, or;
- Meet applicable employee size standards for their North American Industry Classification System (NAICS), or;
- 500 employees or fewer by location for those in the accommodation and food service industry as defined by their NAICS code or for any business acting as a franchise that is assigned a franchise identifier code by the Small Business Administration.

Also eligible are sole proprietors, independent contractors and other self-employed individuals, including so-called gig economy workers. Charitable tax-exempt organizations (including religious organizations), described in section 501(c)(3) of the Internal Revenue Code, and veterans organizations, described in section 501(c)(19), are eligible to participate in the program. However, other tax-exempt organizations (e.g., those described in sections 501(c)(4), (5), and (6)) are not eligible to participate. Cannabis businesses, casinos and racetracks are among the businesses that are not eligible.

The SBA website offers [a size standards tool](#) to assist in determining whether a business is small.

How to apply

Loans under the Paycheck Protection Program are third-party loans with SBA guarantees. Applications are made directly through a participating lending institution. Such institutions can be found at www.sba.gov. The site includes lists of participating institutions, as well as a Lender Match tool, which asks for basic information to share with participating lenders in an effort to match applicants with interested lenders.

Borrowers are precluded from receiving SBA funding under the Paycheck Protection Program and an Economic Injury Disaster Loan (EIDL) for the same purpose.

Option three: Loans for midsize businesses

The CARES Act authorizes a relief program for losses incurred as a result of coronavirus, in an amount not to exceed \$500 billion, for the Treasury to make loans, loan guarantees and other investments in support of eligible businesses, states and municipalities. This includes special assistance for eligible midsize businesses (500 to 10,000 employees).

Loans for midsize businesses in this program are not to have an annualized interest rate higher than 2% and for the first six months (or longer, as the Secretary may determine), no principal or interest is due and payable. Loans are not forgivable.

Businesses with 500 to 10,000 employees will be eligible. We expect additional guidance to be published in the near future. The Act states that all eligible businesses that participate must make a good-faith certification that:

- The uncertainty of the economic conditions as of the date of the application makes necessary the loan request to support the ongoing operations of the recipient.
- The recipient is an entity or business that is domiciled in the United States with significant operations and employees located in the United States.
- The funds the recipient receives will be used to retain at least 90% of its workforce, at full compensation and benefits, until September 30, 2020.
- The recipient intends to restore not less than 90% of its workforce that existed as of February 1, 2020, and to restore all compensation and benefits to the workers of the recipient no later than four months after the termination of the public health emergency declared by the Secretary of Health and Human Services on January 31, 2020.
- The recipient is not a debtor in a bankruptcy proceeding.
- The recipient will not pay dividends with respect to the common stock of the eligible business, or purchase an equity security that is listed on a national securities exchange of the recipient or any parent company of the recipient while the direct loan is outstanding, except to the extent required under a contractual obligation that is in effect as of the date of enactment.
- The recipient will not outsource or offshore jobs for the term of the loan and two years after completing repayment of the loan.
- The recipient will not abrogate existing collective bargaining agreements for the term of the loan and two years after completing repayment of the loan and will remain neutral in any union organizing effort for the term of the loan.

Application processes for these midsize business loans are not yet available. We expect guidance to be published in the near future, and we will share it when available.

If you have questions about any of these programs, please contact your RSM relationship leader for more information.



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