## I. PURPOSE
This guide provides information on the financial supports, in the form of loans, for small businesses proposed in the CARES Act, which was enacted into law on March 27, 2020. The guide provides details on who qualifies for the loans, how much funding is available, what expenses can be covered by the loans, qualifications, and how to apply.

## II. LEGISLATION BACKGROUND
In the face of the economic and social disruption caused by the Coronavirus, Congress has already passed three significant response packages to address health sector needs and to support American families. On March 19, Senate Majority Leader Mitch McConnell (R-KY) released the Senate Republican draft of the Phase 3 stimulus package, known as the Coronavirus Aid, Relief, and Economic Security (CARES) Act. With a $2 trillion-dollar price tag, this third package is one of the largest and most significant stimulus packages in American history.

The Phase 3 CARES Act includes provisions that aim to support small businesses through expanded loan programs. The Act includes $10 billion for SBA emergency grants of up to $10,000 to provide immediate relief for small business operating costs, $17 billion for SBA to cover 6 months of payments for small businesses with existing SBA loans, making rent, mortgage and utility costs eligible for SBA loan forgiveness, and adding a retention tax credit for employers to encourage businesses to keep workers on payroll during the crisis.

On March 25, Senate leaders and the Trump Administration announced that they have reached a deal on the massive economic relief package. After a few delays, the Senate unanimously approved the package shortly before midnight on Wednesday, March 25. On Friday, March 27, the House passed the CARES Act, giving Congress’ final approval to the package. The House approved the measure by voice vote, after leaders in both parties deflected an effort by Rep. Thomas Massie, a Kentucky Republican with a penchant for using procedural maneuvers to try to block legislation, to force a recorded vote requiring lawmakers to register their positions individually. The President signed the bill into law later that day (Public Law 116-136).

This guide provides details of the Small Business Administration (SBA) loan programs addressed in the Senate’s final version of the CARES Act.

## III. CARES ACT LOAN PROGRAM CREATION
The bill amends the Small Business Act (SBA), which, among other things, generally authorizes the Small Business Administration to make loans to small businesses for
certain purposes. The SBA allows the Administration to provide loans directly or in cooperation with the private sector through agreements to participate on an immediate or deferred/guaranteed basis. The CARES Act amends section 7(a) of the SBA to create the Paycheck Protection Program, which allows certain businesses to receive loans up to $10 million from local SBA lenders through the Small Business Administration’s existing 7(a) loan guarantee program.

**Paycheck Protection Program (PPP) – Established Through 7(a) Loans**

The legislation sets aside significant resources for the relief of small businesses, entrepreneurial programs, and use by the Minority Business Development Agency. This relief is predominantly provided in the form of the Paycheck Protection Program, which expands the existing 7(a) loan program to create forgivable loans to maintain employers’ payroll. The legislation expands the maximum loan amount, expands who qualifies, and amends borrower requirements.

**Who qualifies?**

In addition to “small business concerns” as currently defined under current the Small Business Act, the Act expands the number of eligible businesses that can participate in the PPP to include:

- Any business concern, 501(c)3 nonprofit (excluding those that receive Medicaid funds), a 501(c)(19) veterans’ organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act if the entity employs the greater of
  - If the applicable size standard is revenue-based, not more than 500 employees; or
  - If the applicable size standard is employee-based, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, or veterans’ organization operates. This tool from the SBA allows businesses to assess their size standard.
- Sole proprietors, independent contractors, and eligible self-employed individuals (as defined in Congress’s last COVID-19 bill, the Families First Coronavirus Response Act) also may receive PPP loans.
- Restaurant, hotel and hospitality business (i.e., falls within the “accommodation and food services” sector (Sector 72) under the North American Industry Classification System (NAICS) with more than one location, if it employs 500 or less employees per physical location.
- The SBA is also suspending its “affiliation rules” for restaurant, hotel and hospitality businesses (i.e., falls within the “accommodation and food services” sector (Sector 72) under the North American Industry Classification System (NAICS) with less than 500 employees, as well as certain franchises and small business investment companies.

**What’s the maximum loan available?**

For businesses, the maximum loan available is whatever option is the lesser amount:

- 2.5 times the average total monthly payroll costs incurred in the one-year period before the loan is made; ¹
- (For new businesses that did not exist on February 15, 2019 through June 30, 2019 – 2.5 times the average total monthly payroll payments from January 1, 2020 to February 29, 2020); or
- $10 million.

In practice, if the businesses’ payroll costs incurred in the one-year period before the loan is made total less than $10 million, then that amount will be the maximum loan available. Otherwise, the loan is capped at $10 million.

**What are the borrower requirements?**

In order to receive the loan, borrowers must make a “good faith certification” that they have been impacted by COVID-19, and that they will use the funds to retain workers and maintain payroll and other debt obligations. Borrowers also must keep an average monthly number of full-time equivalent employees that is the same number of employees used to determine the loan maximum. For example, if the business calculated its total monthly payroll cost based on the full-time employment of 20 employees, then borrowers must continue to employee 20 employees with the money received from the loan.

Borrowers cannot receive both a 7(a) loan and an Economic Injury Disaster Loan (EIDL) loan through the SBA for the same purpose.² The bill waives the borrower fee for participation.

**What expenses can the loan cover?**

Payroll Costs: Businesses can use the loans for payroll costs, which includes compensation to employees, like salaries and wages, paid leave, and severance payments. The loan can also cover payment for group health benefits (including insurance premiums, retirement benefits, and state and local payroll taxes). The loan can cover compensation to sole proprietors or independent contractors (including commission-based compensation), but with a maximum of $100,000 in one year, prorated for the covered period.

The loan cannot be used to compensate individual employees for amounts above $100,000 per year, prorated for the covered period, or certain federal taxes. The loan cannot cover compensation to employees whose principal place of residence is outside of the U.S.

Health Care: Businesses may use the loans for group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums. However, businesses cannot

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¹ For seasonal employers, it’s the average monthly payroll costs for the 12 weeks beginning on February 15, 2019, or from March 1, 2019 to June 30, 2019.

² If a business already has a SBA disaster loan from the period between February 15, 2020 and March 31, 2020, it may still seek relief under this program. A borrower may apply for a PPP loan, with an option to refinance that loan into the PPP loan.
use the loans to cover sick and family leave wages made available under the Families First COVID-19 relief package.

Other Uses: Businesses may use the loans to cover salaries, commissions, or similar compensations, mortgage and rent payments, and utilities. The loans can also cover interest on any other debt obligations incurred before the covered period.

What are the lender requirements?
The bill allows the Treasury Secretary to grant new private sector players (beyond those already eligible under the SBA) the authority to make 7(a) loans. Participating lenders are entitled to reimbursement of 5% of the balance of the financing outstanding at the time of disbursement of the loan. Under the bill, both current and new 7(a) lenders receive delegated authority from the SBA to make determinations on borrower eligibility and creditworthiness without going through all of the SBA's channels.

Instead of lenders determining loan eligibility based on repayment ability (which is not possible during this crisis), lenders must determine whether:
- A business was operational on February 15, 2020
- Had employees for whom it paid salaries and payroll taxes
- Is an independent contractor
- Has been impacted by the COVID-19.

Loans made cannot exceed current interest rates provided by the 7(a) loan program, and borrowers may not be charged any prepayment fees. The bill increases the government guarantee of 7(a) loans to 100 percent through December 31, 2020. After that date, guarantee percentages will return to 75 percent for loans exceeding $150,000 and 85 percent for loans equal to or less than $150,000.

Borrowers can defer 7(a) loan payments for at least six months and no more than one year, and the SBA is expected to publish guidance to lenders on this deferment process within the next month. The maximum interest rate is four percent.

The SBA must provide a lender with a process fee for servicing the loan, and lender compensation fees are set at five percent for loans of not more than $350,000; three percent for loans of more than $350,000 and less than $2,000,000; and one percent for loans of not less than $2,000,000.

The bill also removes a requirement that small businesses show they can’t get credit elsewhere before turning to the SBA for the credit, as well as the collateral and personal guarantee requirements. The bill waives the lender fee for participation.

How to apply?
Though the Administration has yet to release explicit guidance on the Paycheck Protection Program, because the program was created through the existing 7(a) program, one can assume that the application process will be similar to the current process for 7(a) loans.

Once a business has decided to apply for a loan guaranteed by the SBA, the applicant will need to collect the appropriate documents for their application. The SBA does not provide direct loans. The process starts with the applicant’s local lender, working within SBA guidelines. To apply, applicants will need the below materials and submit to an SBA Participating Lender, found here.

The checklist below can help applicants in ensuring they have everything the lender will ask for to complete the application. Once the loan package is complete, the applicant’s lender will submit it to the SBA.
1. SBA Loan Application – To begin the process, the applicant will need to complete an SBA loan application form. Access the most current form here (Borrower Information Form – SBA Form 1919).
2. Personal Background and Financial Statement – To assess eligibility, the SBA also requires completion of the following forms:
   - Statement of Personal History - SBA Form 912
   - Personal Financial Statement - SBA Form 413
3. Business Financial Statements – To submit a strong application and demonstrate an ability to repay the loan, prepare and include the following financial statements:
   - Profit and Loss (P&L) Statement – This must be current within 180 days of the applicant’s application. Also include supplementary schedules from the last three fiscal years.
   - Projected Financial Statements – Include a detailed,
one-year projection of income and finances and attach a written explanation as to how you expect to achieve this projection.

4. Ownership and Affiliations – Include a list of names and addresses of any subsidiaries and affiliates, including concerns in which the applicant holds a controlling interest and other concerns that may be affiliated by stock ownership, franchise, proposed merger or otherwise.

5. Business Certificate/License – The applicant’s original business license or certificate of doing business. If the applicant’s business is a corporation, stamp a corporate seal on the SBA loan application form.

6. Loan Application History – Include records of any loans the applicant may have applied for in the past.

7. Income Tax Returns – Include signed personal and business federal income tax returns of your business’ principals for previous three years.

8. Résumés – Include personal résumés for each principal.

9. Business Overview and History – Provide a brief history of the business and its challenges. Include an explanation of why the SBA loan is needed and how it will help the business.

10. Business Lease – Include a copy of the business’ lease, or note from the landlord, giving terms of proposed lease.

11. If You are Purchasing an Existing Business – The following information is needed for purchasing an existing business:
   • Current balance sheet and P&L statement of business to be purchased
   • Previous two years federal income tax returns of the business
   • Proposed Bill of Sale including Terms of Sale
   • Asking price with schedule of inventory, machinery and equipment, furniture and fixtures

**Loan Forgiveness**

Borrowers are eligible for loan forgiveness that equals the amount spent on payroll costs, rent/lease payments, or interest payments on mortgages incurred prior to February 15, 2020, or utility payments for services that began before February 15, 2020, in the 8 weeks after the loan’s origination date.

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages:

Payroll costs plus any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation + and any covered utility payment.

Amounts forgiven may not exceed the principal amount of the loan, and the amount forgiven will decrease proportionally if employees are let go (compared to the prior year), or if employee pay is reduced by more than 25 percent compared to prior year’s compensation. This does not apply to borrowers who re-hire workers they previously laid off, as they will not be penalized for having a reduced payroll at the beginning of the period. The bill allows forgiveness for additional wages paid to tipped workers.

Borrowers will verify through documentation to lenders their payments during the period. A safe harbor protects lenders from liability. Lenders will report expected loan forgiveness amounts for a loan or pool of loans to the SBA, and the SBA will purchase such amount of the loan from the lender.

**IV. CARES ACT EXPANSIONS FOR EXISTING SBA LOAN PROGRAMS**

The other specific loan programs addressed in the bill are Economic Injury Disaster Loans (EIDL) and Express Loans. The legislation expands the maximum loan amount, expands who qualifies, and amends borrower requirements.

**Economic Injury Disaster Loans (EIDL)**

The SBA will work directly with state governors to provide targeted, low-interest loans to small businesses and non-profits that have been severely impacted by the Coronavirus (COVID-19). The SBA’s Economic Injury Disaster Loan program provides small businesses with working capital loans of up to $2 million that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing. These loans intend to assist through the disaster recovery period and can be used to pay off outstanding debts, payroll and any other bills they are unable to pay.

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4 Canceled indebtedness resulting from this section will not be included in the borrower’s taxable income.
The CARES Act also allows applicants for disaster loans during the covered period to request an advance payment of up to $10,000, which does not have to be repaid, even if the loan application is later denied.

Who qualifies?
In general, eligibility is based on what a business does to receive its income, the character of its ownership, and where the business operates. Businesses must meet size standards, be able to repay, and have a sound business purpose. In the case of COVID-19, small business must show a loss effective from January 31, 2020 until now and/or in the future, compared to their 2019 financials. The SBA expects lenders to provide a full list of eligibility requirements for the loans.

The CARES Act deems all states and their subdivisions to have enough economic damage to small business concerns to qualify for assistance under this loan program (rather than the current state declaration and certification approach).

In addition to current eligible entities, the CARES Act expands EIDL loan access to:
• Startups with 500 or fewer employees;
• Sole proprietorships and independent contractors;
• Cooperatives with 500 or fewer employees; and
• ESOPs with 500 or fewer employees.

The CARES Act also makes the following additional changes to the SBA disaster loan program during the covered period:
• Waives rules related to personal guarantees on advances and loans of $200,000 or less;
• Waives the “1 year in business prior to the disaster” requirement;
• Waives the requirement that an applicant be unable to find credit elsewhere; and
• Allows lenders to approve applicants based solely on credit scores (no tax return submission required) or “alternative appropriate methods to determine an applicant’s ability to repay.”

There is not a certain time period that the business needs to be in operation to qualify for an EIDL loan, but businesses will need the appropriate business and financial documentation required that shows it is a viable business.

Applicants must show the ability to repay the loan, and collateral is required for all EIDL loans over $25,000. SBA takes real estate as collateral when it is available. SBA will not decline a loan for lack of collateral, but SBA will require the borrower to pledge collateral that is available.

What’s the maximum loan available?
The maximum loan available is $2 million, with interest rates of 3.75% for small businesses and 2.75% for non-profits (subject to any pending legislative change), with repayment plans that can stretch up to 30 years, as determined on a case-by-case basis. The SBA will look at the last three years of information to determine what the business could have paid if the disaster would not have occurred. The loan funds will not provide for lost sales.

The SBA is available to assist all small businesses across the nation and does not have a total cap on the loan amounts; each qualifying small business can apply for a loan of up to $2M to assist with economic recovery. There is no state or territory limit.

The CARES Act establishes an Emergency Grant program that allows an eligible entity who has applied for an EIDL loan to request an advance on that loan, of not more than $10,000. The SBA must distribute the advanced payment within 3 days.

What are the borrower requirements?
Applicants are not required to repay the new advance payments proposed in the CARES Act, even if subsequently denied for an EIDL loan. Advance payments must be considered when determining loan forgiveness if the applicant transfers into the SBA’s 7(a) loan program.

EIDL repayment is deferred for twelve months. Interest accrues during this period. Further, SBA offers loans with long-term repayments to keep payments affordable, up to a maximum of 30 years. Terms are determined on a case-by-case basis, based upon each borrower’s ability to repay.

What expenses can the loan cover?
The EIDL program provides small businesses with working capital loans of up to $2 million that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing. These loans are intended to assist through the disaster recovery period and can be used to pay off outstanding debts, payroll and any other bills they are unable to pay.

The advanced payment option proposed in the CARES Act says that the advance payment may be used for providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses.

What are the lender requirements?
The SBA currently has the sole authority to offer EIDL loans.

How to apply?
Businesses can apply online for an SBA disaster assistance loan. It’s a three-step process, which is detailed in a graphic here.

Businesses must submit the completed loan application before September 30, 2020.

Express Loan Program
Under the Express Loan Program, the maximum loan amount would increase to $1 million from $350,000 through December
31, 2020 after which the maximum amount is changed to $350,000. It provides loans up to $1 million for no more than 7 years with an option to revolve. There is a turnaround time of 36 hours for approval or denial of a completed application. The use of proceeds is the same as the standard 7(a) loan.

**How to apply?**
There are multiple application forms that must be completed by both the lender and the borrower to apply for an express loan. These forms include:
- **SBA Form 1920 Lender’s Application for Loan Guaranty.** This form is completed by the lender.
- **SBA Form 1919 SBA 7(a) Borrower Information Application Form.** This form is completed by each owner with 20% or more owner of the company and kept in the lender’s file after review for any adverse information.
- **IRS Form 4506-T Request for Transcript of Tax Return.** Keep a copy in your file and comment on verification results in your lender memorandum.
- **Loan Authorization.** This file details the Lender’s commitment to the borrower and SBA’s guaranty commitment to the Lender. It is completed and signed by the Lender on behalf of SBA.

All Express applications must be submitted to SBA via E-Tran/ Capital Access Financial System.

V. CARES ACT SUBSIDIES FOR CERTAIN LOAN PAYMENTS
For 7(a) (including Community Advantage), 504, or microloan products, the Administration is encouraging lenders to provide payment deferrals when appropriate. Paycheck Protection Program (PPP) loans are not covered. Lenders are also encouraged to extend the maturity of covered loans to avoid balloon payments or any requirement for increases in debt payments resulting from payment deferrals provided by lenders during the COVID-19-declared emergency.

Additionally, for these loans, the Administration will cover the principal, interest, and any associated fees owed in a regular servicing status:
- For loans made before this bill is enacted not on deferment, for the six-month period beginning with the next payment due;
- For loans made before this bill is enacted that are on deferment, for the six-month period beginning with the next payment due after deferment; and
- For loans made within six months of enactment of this bill, and for six months after the first payment is due.

The bill also instructs the Administrator to work with the FDIC, OCC, and state banking regulators to not force lenders to increase their reserves based on payments received from the SBA. The bill waives statutory limits on maximum loan maturities for the loans described above; and extends lender site visit requirements to account for volume increases, travel restrictions, etc., during the COVID-19 emergency.

VI. OTHER AVAILABLE SBA LOAN OPTIONS
Apart from the loans amended in the CARES Act, the SBA has certain other loan programs available to support small businesses, including the Community Advantage, 504, and Microloan programs.

**Community Advantage (CA) Loan Pilot Program**
The Community Advantage (CA) loan pilot program allows mission-based lenders to assist small businesses in underserved markets with a maximum loan size of $250,000. The uses of proceeds are the same as the standard 7(a) loan.

**How to apply?**
The CA loan guaranty application process is a four-part process, which is outlined in this document.

**504 Loan Program**
The 504-loan program is designed to foster economic development and job creation and/or retention. The eligible use of proceeds is limited to the acquisition or eligible refinance of fixed assets.

**How to apply?**
I. **Find A Loan Expert:** A Certified Development Company (CDC) is a nonprofit organization set up to administer the 504-loan program.
II. Submit form: This form is to be completed by the loan applicant and the Certified Development Company (CDC). The information is used to review the small business loan applicant’s eligibility, its indebtedness, creditworthiness, and certain other disclosures. SBA also uses the information to assess the CDC’s request for guarantee of the debenture. The loan applicant submits the requested information to the CDC. The CDC will forward the information to SBA’s local Loan Processing Center.

**Microloan Program**
The Microloan program involves making loans through nonprofit lending organizations to underserved markets. Authorized use of loan proceeds includes working capital,
supplies, machinery & equipment, and fixtures (does not include real estate). The maximum loan amount is $50,000 with the average loan size of $14,000.

**How to apply?**

Microloans are available through certain nonprofit, community-based organizations that are experienced in lending and business management assistance. If a business applies for SBA microloan financing, the applicant may be required to fulfill training or planning requirements before the loan application is considered. This business training is designed to help applicants’ launch or expand your business.

To apply for a Microloan, applicants must work with an SBA approved intermediary in their area. Approved intermediaries make all credit decisions on SBA microloans. For more information, applicants can contact your local SBA District Office or view the list of Participating Microloan Intermediary Lenders.

**VII. FEDERAL RESERVE**

As small businesses continue to suffer and a recession becomes inevitable, the Federal Reserve has stepped in and enacted multiple policies to support the flow of credit to households and business. In terms of measures that directly impact small businesses, the Fed is:

- Encouraging banks to lend: As of March 16, the Fed is temporarily relaxing regulatory requirements. It eliminated banks’ reserve requirement—the percent of deposits that banks must hold as reserves to meet cash demand—though this is largely irrelevant because banks currently hold far more than the required reserves. It is also encouraging banks to dip into their regulatory capital and liquidity buffers so they can increase lending during the downturn. The reforms instituted after the 2008 crisis require banks to hold additional loss-absorbing capital to prevent future bailouts, but these capital buffers can be utilized during a downturn to stimulate lending, and the Fed is encouraging that now. (To preserve capital, big banks also are suspending buybacks of their shares.)

- Lending facilities:
  - On March 17, the Fed relaunched the Commercial Paper Funding Facility (CPFF) and the Primary Dealer Credit Facility, two crisis-era facilities for short-term loans.
  - On March 18, it also established the Money Market Mutual Fund Liquidity Facility, or MMLF, and the Federal Reserve Bank of Boston will make loans available to eligible financial institutions. To do so, the Fed had to obtain the approval of the Treasury Secretary to invoke emergency lending authority under Section 13(3) of the Federal Reserve Act. Commercial paper is a $1.2 trillion market in which firms issue unsecured short-term debt to certain money market funds and others, to finance day-to-day operations.
  - On March 23, the Fed established two facilities to support credit to large employers, and also established the Term Asset-Backed Securities Loan Facility (TALF), to support the flow of credit to consumers and businesses. The TALF will enable the issuance of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets.

**VIII. UNKNOWNS MOVING FORWARD**

Pelosi and her team reiterated that they will continue to fight for many proposals they were not able to include in the CARES Act, noting there will be opportunities in the fourth stimulus bill Congress is all-but certain to craft. Speaker Pelosi has said on several occasions since the passage of the CARES Act she wants a future 4th COVID-19 stimulus to include stronger paid leave provisions, a pension fix, additional worker protections, and a focus on infrastructure investment.

In pronouncement made today the President pledged to work with Congress on a large infrastructure package, though members of the President’s party in Congress have been less enthusiastic for another round of stimulus.
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