

**Summary: SBA Financial Assistance Under the CARES Act**

The recently federally enacted Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) greatly expanded the United States Small Business Administration’s (“SBA”) ability to serve small and mid-sized businesses by offering new loan programs and favorably modifying existing loan programs, including increasing the number and type of U.S. companies eligible for SBA loan programs to address the impact of the coronavirus disease 2019 (“COVID-19”). Below is a summary of the updated SBA loan programs addressing COVID-19.

<p><b>Paycheck Protection Program (“PPP”):</b> loan to fund costs associated with retaining employees during COVID-19 by temporarily expanding the traditional SBA 7(a) loan program to cover payroll and other operating costs and providing for certain loan forgiveness</p>	
<p>Uses</p>	<ul style="list-style-type: none"> <li>• Payroll costs</li> <li>• Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums</li> <li>• Interest payments on mortgage obligations</li> <li>• Rent</li> <li>• Utilities</li> <li>• Interest payments on other debt obligations that were incurred before February 15, 2020</li> <li>• Refinancing an EIDL loan made between January 31, 2020 and April 3, 2020</li> <li>• 75% of the PPP loan must be used for payroll costs</li> </ul>
<p>Eligibility Requirements</p>	<ul style="list-style-type: none"> <li>• Business, private non-profit organization (including religious), veteran organization, tribal business, independent contractor, sole proprietorship (with or without employees), and certain self-employed individuals</li> <li>• In operation on February 15, 2020</li> <li>• Affected by COVID-19 for the period between February 15, 2020 and June 30, 2020 (the “Crisis Period”)</li> <li>• Meets one of the following size requirements based on affiliation<sup>1</sup>:             <ol style="list-style-type: none"> <li>1. Qualifies as a “small business concern” based on one of the following:                 <ul style="list-style-type: none"> <li>(a) meets employee-based or revenue-based size standard for applicable industry <a href="#">set by SBA</a></li> </ul> </li> </ol> <p style="text-align: center;"><b>OR</b></p> </li> </ul>

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	<p>(b) meets “alternative size standard” test:</p> <ul style="list-style-type: none"> <li>• maximum tangible net worth of not more than \$15 million</li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>• average net income after federal income taxes (excluding any carry-over losses) of not more than \$5 million, calculated based on the two full fiscal years before the date of application</li> </ul> <p><b>OR</b></p> <p>2. Has 500 or fewer employees</p> <p>Certain exceptions to size requirements include:</p> <ul style="list-style-type: none"> <li>• Hospitality and restaurant businesses with more than 1 location-eligible if no more than 500 employees at any 1 location</li> <li>• Hospitality and restaurant businesses with 500 or fewer employees- not required to include affiliates in size calculation</li> <li>• Franchises recognized by the SBA- not required to include affiliates in size calculation</li> <li>• Recipients of Small Business Investment Company funds- not required to include affiliates in size calculation</li> <li>• Faith-based organizations- not required to include affiliates in size calculation</li> </ul> <p><sup>1</sup> <i>Affiliation requires affiliated businesses to combine their employee headcounts for purposes of calculating size. A business and another entity are affiliates if one entity controls or has the power to control the other entity, or a third party controls or has the power to control both entities. Control can arise from ownership, management, agreement (including stock options, convertible securities, agreements to merge, management agreement), and identity of interest, among other bases.</i></p>
Loan Amount	<p>250% of the average total monthly payroll costs incurred during calendar year 2019 (or during the 12-month period prior to the date the PPP loan is made for certain businesses); plus any EIDL loans being refinanced with the PPP loan</p> <p>Overall maximum amount of \$10,000,000</p>
Term	<p>2 years from the date borrower applies for forgiveness of the PPP loan</p>
Interest Rate	<p>1%, with accrual beginning on the date the PPP loan is made</p>

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<p>Repayment Terms</p>	<p>Portion of PPP loan that is used for the following during the 8-week period following receipt of the PPP loan is 100% forgiven:</p> <ul style="list-style-type: none"><li>• Payroll costs</li><li>• Interest payments on covered mortgage* obligations</li><li>• Rent payments on covered lease* obligations</li><li>• Covered utility* payment</li></ul> <p><b><i>Note this does not include forgiveness for all permitted uses of the PPP loan. 75% of the amount to be forgiven must be attributable to payroll costs.</i></b></p> <p>Forgivable amounts are reduced (1) proportionately to the extent the number of full-time employees overall is reduced, and (2) dollar for dollar to the extent the salary of any employee with an annual compensation of less than \$100,000 is reduced by more than 25%^</p> <p>Borrower can apply for forgiveness (process to be determined), which will be determined within 60 days of such application, with submission of the following:</p> <ul style="list-style-type: none"><li>• Documentation verifying number of full-time equivalent employees on payroll and their pay rates, including payroll tax filings and state income, payroll, and unemployment insurance filings</li><li>• Documentation verifying payments on covered mortgage* obligations, covered lease* obligations, and covered utilities*</li></ul> <p>Principal and interest payments on the PPP loan are deferred for at least 6 months and up to 1 year, and only the amount advanced but not forgiven must be repaid</p> <p>Amount of PPP loan forgiven is excluded from gross income</p> <p>Interest accrued on amount of PPP loan forgiven will also be forgiven</p> <p><i>* Covered mortgage means a mortgage obligation that was incurred prior to the Crisis Period; covered lease means a lease that was in force prior to the Crisis Period; covered utility means utility service that began prior to the Crisis Period.</i></p> <p><i>^ Employee headcount and salary reductions made between February 15, 2020 and April 26, 2020 can be undone by June 30, 2020 to avoid a reduction in the forgivable amount of the PPP loan.</i></p>
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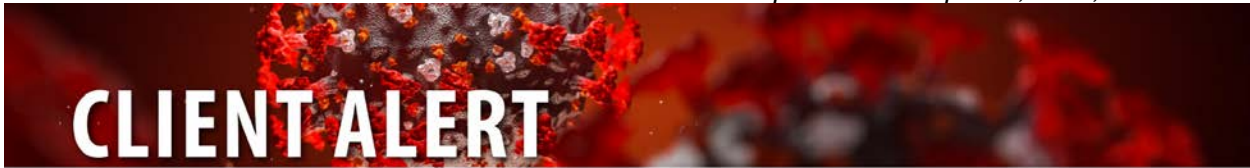
	~ SBA has not defined “full-time equivalent” for the PPP loan program.
Collateral	None
Personal Guarantee	None
Fees	None paid by borrower
Prepayment Penalty	None
Application Process	Through local SBA approved <a href="#">commercial lender</a> . If you need a referral, please contact a DW attorney
Estimated Timeline	<ul style="list-style-type: none"> <li>• Small businesses and sole proprietorships are able to apply for and receive PPP loans beginning April 3, 2020</li> <li>• Independent contractors and self-employed individuals are able to apply for and receive PPP loans beginning April 10, 2020</li> <li>• Approval within 24 hours after application is submitted</li> <li>• Funds disbursed 10 days after approval</li> <li>• Program available through June 30, 2020</li> </ul>

**NOTE: For PPP loan purposes, the SBA has provided the following guidance:**

“**Employee**” only includes an employee *whose principal place of residence is in the US*. Unless noted, “employee” includes full-time, part-time, or other employees, and does not include independent contractors.

“**Payroll cost**” includes compensation to employees in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent; payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; and payment of state and local taxes assessed on compensation of employees. “**Payroll cost**” for independent contractor or sole proprietor includes wage, commissions, income, or net earnings from self-employment or similar compensation.

The following are *excluded* from “**payroll cost**”: any compensation of an employee whose principal place of residence is outside of the US; compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary; federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee’s and employer’s share of FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes, and income taxes required to be withheld from employees;



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and qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act.

<p><b>Economic Injury Disaster Loans</b> (“EIDL”): provide economic relief to businesses that are currently experiencing a temporary loss of revenue due to COVID-19 by expanding the traditional SBA 7(b)(2) disaster relief loan program</p>	
<p>Uses</p>	<p>The following that could have been paid had COVID-19 not occurred:</p> <ul style="list-style-type: none"> <li>• Fixed debts</li> <li>• Payroll</li> <li>• Accounts payable</li> <li>• Insurance premiums</li> <li>• Rent</li> <li>• Other bills</li> </ul>
<p>Eligibility Requirements</p>	<ul style="list-style-type: none"> <li>• Business, private non-profit organization (including religious organizations), tribal business, independent contractor, sole proprietorship (with or without employees), self-employed individual, cooperative, ESOP, agricultural cooperative</li> <li>• In operation on January 31, 2020</li> <li>• Meets one of the following size requirements based on affiliation+:             <ol style="list-style-type: none"> <li>1. Employee-based or revenue-based size standard for applicable industry <a href="#">set by SBA</a></li> <li><b>OR</b></li> <li>2. Has 500 or fewer employees</li> </ol> </li> <li>• Otherwise complies with SBA guidelines (other than no credit elsewhere), including located in <a href="#">disaster-declared area</a> and ability to repay</li> </ul>
<p>Loan Amount</p>	<p>Up to \$2,000,000, based on SBA’s review of borrower’s financials; may be increased on a case-by-case basis after initial funding</p>
<p>Term</p>	<p>Up to 30 years</p>
<p>Interest Rate</p>	<p>3.75% (2.75% for non-profit organizations) with accrual beginning on the date the EIDL loan is made</p>
<p>Repayment Terms</p>	<p>Principal and interest payment deferred for 1 year</p>

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Collateral	None for EIDL loans \$25,000 or less, SBA 7(a) requirements for EIDL loans over \$25,000; can be waived
Personal Guarantee	None for EIDL loans \$200,000 or less; SBA 7(a) requirements for EIDL loans over \$200,000
Fees	None paid by borrower
Prepayment Penalty	None
Application Process	SBA ( <a href="https://COVID-19relief.sba.gov/#/">https://COVID-19relief.sba.gov/#/</a> )
Estimated Timeline	<ul style="list-style-type: none"> <li>• Approval within 2-3 weeks after application is submitted</li> <li>• Funds disbursed within 5 days after application is approved</li> <li>• Program available through December 31, 2020</li> </ul>

<b>EIDL Emergency Advance</b> (“EIDL Advance”): advance on a potential EIDL loan to address the economic need between application submission and loan funding	
Uses	<ul style="list-style-type: none"> <li>• Providing paid sick leave to employees unable to work due to the direct effect of the COVID-19</li> <li>• Maintaining payroll to retain employees during business disruptions or substantial slowdowns</li> <li>• Meeting increased costs to obtain materials unavailable from original source due to interrupted supply chains</li> <li>• Making rent or mortgage payments</li> <li>• Repaying obligations that cannot be met due to revenue losses</li> </ul>
Eligibility Requirements	<ul style="list-style-type: none"> <li>• Business, private non-profit organization (including religious organizations), tribal business, independent contractor, sole proprietorship (with or without employees), self-employed individual, cooperative, ESOP, agricultural cooperative</li> <li>• In operation on January 31, 2020</li> <li>• Meets one of the following size requirements based on affiliation+:             <ol style="list-style-type: none"> <li>1. Employee-based or revenue-based size standard for applicable industry <a href="#">set by SBA</a></li> </ol> <p><b>OR</b></p> <ol style="list-style-type: none"> <li>2. Has 500 or fewer employees</li> </ol> </li> </ul>
Loan Amount	Up to \$10,000

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Term	N/A
Interest Rate	N/A
Repayment Terms	<p>Borrower is not required to repay any EIDL Advance, even if subsequently denied an EIDL loan</p> <p>If borrower transfers into or is approved for a PPP loan, the EIDL Advance amount will be reduced from the loan forgiveness amount for a PPP loan</p>
Collateral	N/A
Personal Guarantee	N/A
Fees	N/A
Prepayment Penalty	N/A
Application Process	Apply for EIDL loan and request that \$10,000 of the EIDL loan be immediately advanced
Estimated Timeline	<ul style="list-style-type: none"> <li>• Funded within 3 days after application is submitted</li> <li>• Program available through December 31, 2020</li> </ul>

<p><b>SBA Express Bridge Loan</b> (“Bridge Loan”): support to small businesses to help overcome the temporary loss of revenue due to COVID-19 while waiting for EIDL loan approval; can be used as an amortizing term loan if no EIDL loan</p>	
Uses	Working capital to support the survival and/or reopening of the small business
Eligibility Requirements	<ul style="list-style-type: none"> <li>• Small business</li> <li>• Operational as of March 13, 2020</li> <li>• Adversely impacted by COVID-19</li> <li>• Otherwise comply with Section 7(a) requirements (including no credit elsewhere), other than disaster-location requirement (COVID-19 location requirement is any state, territory and the</li> </ul>

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	District of Columbia that has been adversely impacted by COVID-19)
Loan Amount	Up to \$25,000
Term	Up to 7 years
Interest Rate	Prime plus 6.5% with accrual beginning on the date the Bridge Loan is made
Repayment Terms	Repaid in full or in part by proceeds from EIDL loan  OR  Loan may amortize if borrower does not obtain EIDL loan
Collateral	Same as Section 7(a) loans
Personal guarantee	Same as Section 7(a) loans
Fees	Same as Section 7(a) loans
Application Process	Through SBA Express Lender that borrower has existing banking relationship with
Timeline	<ul style="list-style-type: none"> <li>• Funded within 45 days after approval is received</li> <li>• Available through March 13, 2021</li> </ul>

Additional COVID-19-related relief programs:

**SBA Debt Relief**

The SBA will automatically pay the principal, interest, and fees of current SBA 7(a), 504, and microloans for a period of 6 months.

The SBA will automatically pay the principal, interest, and fees of new SBA 7(a), 504, and microloans issued prior to September 27, 2020 for a period of 6 months.

**Grants**

The SBA will provide grants to (i) resource partners (small business development center, women’s business center, and SCORE mentorship center) to provide education, training, and advising re: COVID-19 related issues to covered small business concerns and employees, and (ii) minority business centers and minority chambers of commerce for



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providing education, training, and advising re: COVID-19 related issues to minority business enterprises and employees.

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There will be high demand for these loans, so it will benefit you to get started on the process as soon as possible-- compile all information needed for your application; maintain complete records regarding all expenses you wish to have covered by the applicable loan; consult with your DW attorney regarding how an SBA loan may impact your existing and future obligations.

## **DW can help by:**

- Analyzing whether an entity is an affiliate for purposes of qualifying for a PPP loan
- Advising on exceptions to eligibility requirements for a PPP loan
- Reviewing which employees can be counted for purposes of the PPP loan amount
- Explaining how changes in payroll (personnel and rate) impact the forgivable portion of the PPP loan
- Reviewing your specific circumstances to determine which loan program may work for you
- Determining whether you can you take advantage of more than one loan program

In addition to the COVID-19-related loan programs discussed, the SBA continues to offer its traditional loan programs. Many states and localities have also established programs to assist businesses with the impact of COVID-19. We are committed to guiding you not only through the SBA loan program process, and helping you secure the other capital you need, but through all of the uncertainties surrounding COVID-19. Visit our [COVID-19 Development resource center](#) for more information on how we can help.

The foregoing is a general summary on the SBA programs and is being provided with the understanding that DW is not rendering legal, tax or other professional advice, positions or opinions on specific facts or matters and, therefore, assumes no liability whatsoever in connection with its use. All requirements and terms are subject to change. We are here to consult with you regarding your specific needs and circumstances.

*Please watch for in-depth descriptions of the COVID-19-related SBA loan programs and their components in our Client Alerts, as well as full coverage of the CARES Act.*