

CARES Act Fraud Awareness Briefing

Small Business Administration
Office of Inspector General



Introduction

The CARES Act provided two sources of funding for small business affected by the economic downturn associated with the Coronavirus pandemic.

Paycheck Protection Program (PPP)

- Designed for payroll costs and benefits, mortgage interest and rent, and utilities

Economic Injury Disaster Loans (EIDL)

- Designed for working capital (fixed debts, payroll, accounts payable)

Associated Fraud Schemes

- Scams
- Borrower Fraud
- Lender/Broker Fraud



Paycheck Protection Program (PPP)



PPP Overview

The PPP provides small businesses with funds to pay up to 8 weeks of payroll costs including benefits.

- Funds can be used for payroll, interest on mortgages, rent, and utilities
- Entire loan amount may be forgiven
- \$349 billion allocated initially; \$310 billion added on April 24, 2020; approximately \$131 billion remains as of July 17, 2020
- By comparison, \$23 billion in 7(a) loans in 2019



PPP Details

- Started April 3 (small businesses and sole proprietorships) & April 10 (independent contractors and self-employed individuals) On July 7th, SBA's authority to guarantee PPP loans was extended through August 8, 2020.
- Apply through traditional lenders, and some authorized non-traditional lenders
- Maximum loan amount is \$10M
- 100% SBA guaranty
- Minimum 5-year repayment term for loans with a balance after forgiveness
- 1% interest rate
- Deferral period varies based on factors related to forgiveness
- All PPP Rules and FAQs can be found at: <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>



Eligibility Requirements

Small Business Definition

- For manufacturers, suppliers, or resellers, the business must have fewer than 500 employees. For all other businesses, size is assessed based on annual revenue specific to that industry. (Size standards are codified in 13 CFR 121.201.)

Includes

- Small businesses
- Non-profits (501c3)
- Veterans organizations (501c19)
- Tribal businesses (31b2C)
- Sole proprietorships/Self-employed/Independent contractors



Ineligible Borrowers

- Currently in bankruptcy
- An owner is subject to formal criminal charges or presently incarcerated
- The look-back period has been reduced from 5 years to 1 year to determine eligibility for applicants, or owners of applicants, who, for non-financial felonies, have (1) been convicted, (2) pleaded guilty, (3) pleaded nolo contendere, or (4) been placed on any form of parole or probation (including probation before judgment). The period remains 5 years for felonies involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance. The application also eliminates pretrial diversion status as a criterion affecting eligibility
- Currently delinquent or defaulted within the last 7 years, on a direct or guaranteed loan from SBA or any other federal agency
- Suspended or debarred



Borrower Requirements

- Business was in operation on February 15, 2020
- Business had employees
- Business had average monthly payroll costs

PPP loans require no collateral and no personal guaranty



Lender Requirements

Lenders

- Existing SBA lenders
- New lenders – approved by Department of Treasury and the SBA
- Requirement to use SBA forms or forms that have the exact language as the SBA forms

Fees

- No SBA guaranty fees, including upfront and annual servicing fees
- SBA pays lender processing fees
- Agent fees paid from lender fees



Use of Funds

Payroll Costs

- Salary, wages, commissions, tips
- Employee benefits
- State and local taxes

Other Eligible Costs

- Rent
- Utilities (electricity, water, gas, telephone, or internet)
- Interest on mortgage and any other debt obligations that were incurred before February 15, 2020



Loan Forgiveness

Loans are forgivable if the following conditions are met over the 24 week period after the loan is made:

- Loan proceeds covered approved costs
- Employee numbers are maintained
- Compensation levels are maintained
- Borrower submits a written request to lender
- Forgivable if used for 60% payroll costs and 40% for rent, utilities, interest costs



Safe Harbor

- *Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith. SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity.*





Paycheck Protection Program Application Form

OMB Control No.: 3245-0407
Expiration Date: 09/30/2020

Non-Profit <input type="checkbox"/> Vet Org <input type="checkbox"/> Tribal <input type="checkbox"/> Ind. Cont. <input type="checkbox"/> Self Employed <input type="checkbox"/>	DBA or Tradename if applicable	
Business Legal Name		
Business Primary Address	Business TIN (EIN,SSN)	Business Phone
		() -
	Primary Contact	Email Address

Average Monthly Payroll:	\$	X 2.5 equals Loan Amount:	\$	Number of Jobs:	
Purpose of the loan (select more than one):	<input type="checkbox"/> Payroll <input type="checkbox"/> Rent / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain):				

Applicant Ownership

List all owners of Applicant with greater than 20% ownership stakes. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (EIN,SSN)	Address

If questions (1) or (2) below are answered "Yes," the loan will not be approved.

Question	Yes	No
1. Is the Business or any owner presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Business, any of its owners, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the Business or any owner an owner of any other business or have common management with any other business? If yes, attach a listing of all Affiliates and describe the relationship as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Business received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input type="checkbox"/>

Applicants who are individuals and all 20% or greater owners of the business must answer the following questions. If questions (5) or (6) are answered "Yes" or question (7) is answered "No", the loan will not be approved.

Question	Yes	No
5. Are you presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, on probation or parole?	<input type="checkbox"/>	<input type="checkbox"/>
Initial here to confirm your response to question 5 →		
6. Within the last 7 years, for any felony or misdemeanor for a crime against a minor, have you: 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; 4) been placed on pretrial diversion; or 5) been placed on any form of parole or probation (including probation before judgment)?	<input type="checkbox"/>	<input type="checkbox"/>
Initial here to confirm your response to question 6 →		
7. <input type="checkbox"/> I am a U.S. Citizen <u>OR</u> <input type="checkbox"/> I have Lawful Permanent Resident status <input type="checkbox"/> No		
Initial here to confirm your response to question 7 →		

By Signing Below, You Make the Following Representations, Authorizations, and Certifications

REPRESENTATIONS AND AUTHORIZATIONS

I represent that:

- I have read the Statements Required by Law and Executive Order included in this form, and I understand them.
- I will comply, whenever applicable, with the civil rights and other limitations in this form.
- All SBA loan proceeds will be used only for business related purposes as specified in the loan application.
- To the extent feasible, I will purchase only American-made equipment and products.
- The Applicant is not engaged in any activity that is illegal under federal, state or local law.

For Applicants who are individuals and all Associates: I authorize the SBA to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for programs authorized by the Small Business Act, as amended.



CERTIFICATIONS

The Business and each 20% or greater owner must certify in good faith to all of the below by **initialing** next to each one:

Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments; I understand that if the funds are used for unauthorized purposes, the federal government may pursue criminal fraud charges.

Documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight week period following this loan will be provided to the lender.

Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to likely high subscription, it is anticipated that not more than twenty-five percent (25%) of the forgiven amount may be for non-payroll costs.

During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under this program.

I further certify that the information provided in this application and the information that I have provided in all supporting documents and forms is true and accurate. I realize that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

I acknowledge that the lender will calculate the eligible loan amount using tax documents I have submitted. I affirm that these tax documents are identical to those I submitted to the IRS. I also understand, acknowledge and agree that the Lender can share the tax information with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

PPP Loan Data

- Loan Data : <https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>
- Loan Data By State: <https://home.treasury.gov/policy-issues/cares-act/assistance-for-small-businesses/sba-paycheck-protection-program-loan-level-data>
- Rules and Forms: <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>



Economic Injury Disaster Loans (EIDL)



EIDL Overview

An EIDL provide small businesses with working capital for fixed debts, payroll, accounts payable, and other bills resulting from the pandemic

- Direct loan from SBA (no private lenders)
- [Online application](#)
- Maximum unsecured loan amount is \$25,000



EIDL Details

- 1st payment deferred for 12 months
- Disaster Loan Emergency Advance up to \$10,000
- The current maximum loan amount is \$150,000 per entity or a maximum amount of \$2 million for all affiliated businesses
- Interest rates between 2.75% - 3.75%
- Available until December 31, 2020
- \$60 billion added on April 24, 2020
- Note: Beginning July 11, 2020, SBA no longer offers advances on Economic Injury Disaster Loans



Eligibility Requirements

Available to:

- Small Business (all forms)
- Cooperatives
- Employee Stock Ownership Plan (ESOP)
- Tribal Small Business
- Private non-profit organization with IRS designation 501(c),(d), or (e)
- Private non-profit doing business under State law
- Faith-based organizations

Business must have acceptable credit history and ability to repay the loan.



Ineligible Borrowers

- Illegal activity (as defined by Federal guidelines)
- Principal with a 50% + more than 60 days delinquent on child support
- Agricultural enterprise (unless otherwise approved)
- Displays of a prurient sexual nature (directly or indirectly)
- More than 1/3 of gross annual revenue from *legal* gambling activities
- Is in the business of lobbying
- Is a state, local, or municipal government or a member of Congress



Use of Funds

Working Capital, which includes:

- Fixed debts (rent, utilities, etc.)
- Payroll
- Accounts payable
- Some bills that could have been paid had the disaster not occurred



Ineligible Uses of Loan

- Dividends or bonuses
- Payment to owners, unless for performance of services
- Repayment of stockholder/principal loans (with exceptions)
- Expansion of facilities, acquisition of fixed assets
- Repair or replacement of physical damages
- Refinancing long term debt
- Payment of federal debt except IRS
- Relocation



QUESTION	ECONOMIC INJURY DISASTER LOAN	PAYROLL PROTECTION PROGRAM
Application	covid19relief.sba.gov/#/	Contact your lender
Eligibility	<p>Under 500 employee and a:</p> <ul style="list-style-type: none"> • Small Business • Sole Proprietor • Cooperatives includes agricultural cooperative • Employee Stock Ownership Plan (ESOP) • Tribal small business • Aquaculture and nursery business • 501(c), (d), or (e) nonprofits • State-based private non-profit • Faith-based organization • Business under SBA Size Standards 	<p>Under 500 employers and a:</p> <ul style="list-style-type: none"> • Small Business • 501c3 Nonprofit • 501c19 Veteran’s Organization • 31b2C Tribal Business • Sole proprietorship • Self-employed • Independent contractor • Faith-based organization
Approved Uses	<p>Working Capital, which includes:</p> <ul style="list-style-type: none"> • Fixed debts (rent, utilities, etc.) • Payroll • Accounts payable • Some bills that could have been paid had the disaster not occurred 	<ul style="list-style-type: none"> • 8-Weeks of payroll costs • Rent, Utilities, Interest on Debts
Terms	<ul style="list-style-type: none"> • 3.75% • Up to 30 years 	<ul style="list-style-type: none"> • Forgivable if used for 75% payroll costs and 25% for rent, utilities, interest costs • If not forgiven, 1% interest for 2 years
Payments Begin	In 12 months	In 6 months (if not forgiven)

PPP and EIDL Fraud



Scams

- Scam websites including fake brokers, loan agents, lenders, or other entities posing as gatekeepers to SBA loans
- Attempts to elicit PII or proprietary financial information
- Misuse of SBA logo or insignia



Borrower Fraud

- False statements on applications
- Fraudulent supporting documents (e.g., payroll, tax forms)
- ID theft
- Corporate ID theft (Shelf Corporations)
- Inflation of payroll
- Misuse of proceeds
- Unqualified borrowers



Lender/Broker Fraud

Fraud Indicators

- Request for up-front payments
- Offers for high-interest bridge loans
- Fees in excess of SBA limits



SBAD TREAS 310

ACH Fraud

SBAD TREAS 310/MISC PAY NTE*PMT*EIDG – Economic Injury Disaster Grant Max \$10,000

SBAD TREAS 310/MISC PAY RMT*CT*##### - Economic Injury Disaster Loan Max \$150,000

The 10 digits following CT* is the SBA Loan Number

- Newly created and/or multiple bank accounts with abnormal transaction activity
- Consumer accounts rather than business accounts
- Quick movement of money in and out of accounts (often within 1-2 days)
- Withdrawals made via cash or apps (e.g. Cash App, Zelle)
- Abnormal transaction activity for client based on historical transactions
- Transfers to overseas accounts



SBAD TREAS 310

ACH Fraud

Warning signs of fraud include:

- Using stolen identities to qualify for funds – Name Mismatch on ACH
- Applications from ineligible persons (nonbusiness entities, suspended or debarred individuals, etc.)
- Fake businesses established specifically to apply for SBA assistance
- Borrowers working with third parties to obtain Economic Injury Disaster Loan funds in exchange for keeping a percentage of the funds
- Borrowers using economic injury loan money to start businesses



SBAD TREAS 310

ACH Fraud

- Individuals are solicited through social media to provide PII to obtain “free money”, PII is used to apply for SBA EIDL, individual is directed to send portion of the proceeds via Zelle, CashApp, or wire transactions. - Retain Attempted Wire Requests
- Romance Scams
- From the end of April through Mid-June only Agricultural businesses were eligible to apply – Stolen Identities of Farms



What to Do if You Must Return Funds to SBA

- Financial Institutions who have questions about eligibility or need to return money should contact SBA at eidl.ach.inquiries@sba.gov
- If funds need to be returned via check, use the following address:

SBA / Denver Finance Center
721 19th St
Denver, CO 80202
- Please annotate that it is for **EIDL Advance Repayment due to Fraud** in addition to the **application number (EIDG number from the deposit) and borrower name** or if it is the EIDL Loan and the loan #.



Frequently Charged Statutes

18 USC 1343	Wire Fraud
18 USC 1001	False Statements
18 USC 1030	Computer Fraud
18 USC 1031	Major Fraud
18 USC 641	Conversion of Public Monies
18 USC 1028	Identity Theft
18 USC 1017	Use of Government Seal
18 USC 1040	Disaster Fraud
18 USC 1344	Bank Fraud
18 USC 1345	Injunctions against Fraud
18 USC 371	Conspiracy



Report Fraud, Waste, or Abuse:

Toll-free Telephone: (800) 767-0385

Online: [Hotline](#)

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 @SBAOIG

Sign Up for [Email Updates](#)

Contact OIG:

By Telephone: (202) 205-6586

By Mail: Office of Inspector General
409 3rd Street
Washington, D.C. 20416

