

COVID-19

EXPANSION OF SBA DISASTER LOAN PROGRAM - 15 U.S.C. 636(B)(2)

The CARES Act expands access to economic injury disaster loans (EIDL) under the SBA (15 U.S.C. 636(b)(2)) for the covered period between January 31, 2020 and December 31, 2020. EIDL loans generally are available for “substantial economic injury” as a result of a disaster.

Expansion of Eligibility

In addition to small business concerns, private nonprofit organizations, and small agricultural cooperatives, the following entities may receive EIDLs under the CARES Act for the covered period:

- A business with 500 or fewer employees;
- Sole proprietorships, with or without employees, and independent contractors;
- Cooperatives with 500 or fewer employees;
- ESOPs with 500 or fewer employees;
- Tribal small business concerns (as defined by 15 U.S.C. 657a(b)(2)(C)) with 500 or fewer employees.

Qualification

For EIDLs made during the covered period in response to COVID-19, the law waives:

- For all applicants, rules related to personal guarantees on advances and loans of \$200,000 or less;
- The “1 year in business prior to the disaster” requirement (but the business must have been in operation of January 31, 2020); and
- The requirement that an applicant be unable to find credit elsewhere.

Lenders under the CARES Act may approve applicants for COVID-19-related relief based solely on credit scores (no requirement to submit tax returns) or may use “alternative appropriate measures to determine an applicant’s ability to repay.”

Application can be made either through an Applicant’s lender or via the SBA website.

Loan Amounts

Under section 7(b)(2), loans of up to \$2 million are permissible. That limit is maintained by the CARES Act. In addition, the CARES Act provides a loan advance of up to \$10,000 available within three days of a successful application (see below).

Loan Terms

Per the SBA, EIDL loan terms are determined on a case-by-case basis, based upon each borrower’s ability to repay, but may not exceed 30 years. The interest rate for small businesses is 3.75% and for non-profits is 2.75%. Funds may be used to pay fixed debts, payroll, accounts payable, and other bills.

Emergency grants for EIDL applicants

Eligible entities that apply for EIDLs during the covered period for COVID-19 reasons may request an advance from the Administrator of up to \$10,000, which does not have to be repaid, even if the loan application is later denied. The Administrator is to verify that the applicant is an eligible entity for an EIDL by accepting a self-certification from the applicant under penalty of perjury. Advances are to be paid within 3 days of filing of the EIDL application. The Administrator is appropriated \$10 billion to award these advances.

Advances may be used for purposes already authorized under the SBA for EIDLs, including:

- Providing sick leave due to direct effects of COVID-19;
- Maintaining payroll during business disruptions or substantial slow-downs;
- Meeting increased supply chain costs;
- Making rent or mortgage payments; and
- Repaying debts that cannot be paid due to lost revenue.