

## Not-for-Profit Loan Assistance Under the CARES Act

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The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the Act) includes provisions that provide loan funds to businesses, including not-for-profits (NFPs), to assist them with urgent and immediate financial needs caused by the pandemic. The funds are provided through newly established or enhanced programs under the existing Small Business Administration's (SBA) type 7 loan program. NFPs can now apply for loan assistance under either, or both, of the following programs:

- Economic Injury Disaster Loans (EIDLs), under SBA 7(b) loans
- Paycheck Protection Program (PPP), under SBA 7(a) loans

### EIDL versus PPP Loans

The following is a brief overview and comparison of the two programs:

	EIDL	PPP
<b>Loan size</b>	Up to \$2,000,000, as determined by the SBA	Lesser of \$10 million or 2.5x average monthly average payroll costs for the prior year (see below)
<b>Eligible for loan forgiveness</b>	No	Yes, see below for further details.
<b>Affiliation rules apply in determining employee size</b>	N/A; although not clear whether large NFPs will be entitled to the EIDL's special waivers and enhancements	Yes
<b>Interest rate</b>	2.75% for NFPs (3.75% for businesses)	0.50% fixed rate (interest and principle deferred for six months; interest still accrues)
<b>Amortization period</b>	Up to 30 years	2 years (no prepayment penalty)
<b>Lender</b>	SBA	Banks and lenders enrolled in the SBA 7(a) program, or any qualified lender, as determined by the SBA
<b>Immediate advance</b>	Up to \$10,000; does not have to be repaid even if the loan is denied	No
<b>Eligibility requirements</b>	Any size NFP with an IRS determination as a Section 501(c), (d) or (e) tax exempt entity	<ul style="list-style-type: none"> <li>• NFPs with an aggregate of less than 500 employees, including those of a related entity or entities through common control</li> <li>• NFPs can only be Section 501(c)(3) type and exempt under 501(a) and 501(c)(19) (veterans organizations)</li> </ul>
<b>Personal guarantee</b>	Waived for loans up to \$200,000	None

<b>Ability to obtain credit elsewhere provision</b>	Waived	None
<b>Collateral</b>	Waived	None
<b>Allowable uses of loan proceeds</b>	Ordinary and necessary business expenses	Payroll costs, including health and retirement benefits and state and local taxes on wages, mortgage interest, rent and utilities
<b>Non-allowed uses of loan proceeds</b>	<ul style="list-style-type: none"> <li>• Refinancing existing debt</li> <li>• Payment of other federal agency loans</li> <li>• Paying federal, state or local tax penalties or fines</li> <li>• Repairing physical damage</li> <li>• Making distributions to owners other than <u>reasonable remuneration</u></li> </ul>	Payment of portion of salaries of individual employees exceeding \$100,000
<b>Can be transferred to a PPP Loan?</b>	Yes	N/A

### Additional PPP Loan Details

Each PPP loan will be registered under a Taxpayer Identification Number at the SBA to prevent multiple loans to the same entity. An NFP can qualify for both PPP loans and EIDLs. An entity that obtains an EIDL between February 15, 2020 and June 30, 2020 can convert that loan into a PPP loan.

The PPP defines payroll costs to:

- **include**
  - salaries, wages, tips;
  - vacation, medical or sick leave health and retirement benefits, and
  - state and local wage taxes.
- **exclude**
  - annual compensation over \$100,000 for any individual employee
  - compensation of employees whose principal place of residence is outside of the United States
  - qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act

Employers are eligible for a 50 percent refundable payroll tax credit on wages paid up to \$10,000 per employee during the crisis. It would be available to employers whose operations were disrupted due to virus-related shutdowns and entities experiencing a decrease in gross receipts of 50 percent or more when compared to the same quarter last year. The credit is available for employees retained but not currently working due to the crisis for organizations with more than 100 employees, and for all employees for companies with 100 or fewer employees. However, the credit is **not available** for those obtaining a **PPP** loan.

The CARES Act also allows employers to significantly defer the deposit of an employer's share of social security taxes (but not Medicare taxes). Specifically, all employer social security taxes, otherwise required to be deposited between March 27, 2020 and December 31, 2020, are not required to be deposited on the normal deposit schedule. Instead, half of such taxes would be required to be deposited by December 31, 2021 and the remainder would be required to be deposited by December 31, 2022. A NFP can elect to utilize this deferral option; however, if the NFP obtains a **PPP** loan and the loan is subsequently forgiven, this deferral provision **is not** allowed.

## PPP Loan Forgiveness

The PPP loan can be forgiven if the proceeds from the PPP loan are used to pay:

- Payroll costs
- Interest and certain mortgage obligations
- Rent and utilities

The PPP loan amount eligible for forgiveness is based on the ratio of:

$$\frac{\text{Average Number of FTEs per month from the loan date to June 30, 2020}}{\text{Average Number of FTEs per month from February 15, 2019 to June 30, 2019*}}$$

\* A borrower can alternatively choose to use the period January 1, 2020 to February 29, 2020

The PPP loan amount eligible for forgiveness is reduced by any wage reductions in excess of 25% per employee. Any temporary reduction in head count made between February 15, 2020 and April 26, 2020 will not reduce forgiveness if corrected by June 30, 2020.

An entity must apply for forgiveness of the PPP loan with its PPP loan lender. In the application the entity must include:

- Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and state income, payroll and unemployment insurance filings.
- Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.
- Certification from a representative of the entity that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the PPP's guidelines for use.

Lenders must make a decision on the forgiveness within 60 days. Any loan amounts not forgiven at the end of one year are carried forward as an ongoing loan.

## Other Loan Support

The CARES Act also provides for a loan and loan guarantee program through a new Industry Stabilization Fund (the Fund) to be created by the Treasury Department. The Fund will specifically target mid-size organizations, defined as having between 500 and 10,000 employees, and is designed to fill the gap between the PPP for smaller entities and the industry stabilization loans to big business. Maximum loan amounts are not yet specified.

The Fund, unlike the PPP, prohibits loan forgiveness, but caps interest at two percent, with no principle or interest paid for the first six months. Organizations receiving these types of loans must retain or rehire at least 90 percent of their existing employees in place on February 1, 2020, at full compensation through September 30, 2020. The loans will be available through banks or lending institutions and applicants must provide good-faith certification that need is based on economic conditions, funds will be used to retain and restore employment, won't abrogate collective bargaining agreements, and will remain neutral in union organizing efforts, among other things.

## Contact Us

We invite you to visit our [COVID-19 Resource Center](#) for information on various business matters related to the pandemic. In the interim, if your not-for-profit organization needs assistance with any accounting, auditing, tax or business consulting services, please contact the partner in charge of your account or

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