

# Coronavirus Relief Package

*How companies can borrow under the new stimulus package*



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# CARES Act Business Lending Programs

Phase 1 Coronavirus Preparedness and Response Supplemental Appropriations Act H.R. 6074

Phase 2 Families First Coronavirus Response Act H.R. 6201



Phase 3 CARES Act H.R. 748

# Understanding the CARES Context



**KEEPING AMERICAN WORKERS PAID**



**ASSISTANCE FOR AMERICAN WORKERS, FAMILIES & BUSINESSES**



**SUPPORTING HEALTHCARE SYSTEMS IN THE FIGHT AGAINST THE CORONAVIRUS**



**ECONOMIC STABILIZATION AND ASSISTANCE TO SEVERELY DISTRESSED SECTORS OF THE UNITED STATES ECONOMY**



**CORONAVIRUS RELIEF FUNDS FOR STATE AND LOCAL GOVERNMENTS**



**MISCELLANEOUS (EMERGENCY APPROPRIATIONS)**



Paycheck Protection Program



Unemployment Insurance



Health Supply Shortages



Stabilization Act of 2020



Coronavirus Relief Funds



Appropriations & Programs



EIDL Grants



Rebates and Other Provisions



Access to COVID-19 Health Care



Air Carrier Worker Support



Business Tax Credits



Health Care Workforce



Medicare & Medicaid



Human Services



Public Health



Over-the-Counter Drugs

- Agricultural Programs
- Department of Commerce
- Department of Defense
- Corps of Engineers
- Department of Treasury
- Department of Homeland Security
- Department of Interior
- Department Labor
- Legislative Branch
- Veteran Affairs
- Department of State
- Department of Transportation

# Economic Injury Disaster (EIDL)

**\$50 billion**



Provides up to \$2 million per borrower in working capital loans for small businesses. Small businesses must meet a list of size standards which vary per NAICS industry code

**\$10 billion**



\$10,000 grant to each applicant, paid within three days after completing its application to the SBA. The grant is not required to be repaid, even if the applicant does not obtain a loan under the EIDL program



## Eligibility

- Small Business Concern, Cooperative, ESOP, Tribal Business concern, Sole Proprietorship, Independent Contractor not more than 500 employees
- Meet affiliate rules (more on that later)
- Disaster recovery area (all States are now)



## Amount, Rate & Term

- Up-to \$2 million
- Interest rate of 3.75% with 2.75% for non-profits
- Collateral requirements for loans in excess of \$25,000
- No personal guarantees for loans under \$200,000
- Evaluation includes credit history, repayment ability



## Use of Proceeds

- Working Capital
- Payroll
- Other expenses applicant could have paid had the disaster not occurred.
- Cannot be used to replace lost profits or to finance expansion.



## Application & Timing

- Apply direct to SBA.
- IRS forms of ownership, tax returns, financials, fixed debt schedule and owner info.
- SBA checks credit and reviews docs.
- Decision up-to 4 weeks.
- First \$25,000 disbursed within 5 business days (which can repay bridge loans.



## Advance Grant

- Up-to \$10,000
- Paid within 3 days of application to SBA
- Realized even if application is denied.
- If Paycheck Protection Program (PPP) is awarded, reduces forgiveness under PPP.
- Can pay sick leave, payroll, supply chain materials, rent/mortgage, debt.

# Paycheck Protection Program (PPP)

## Eligibility

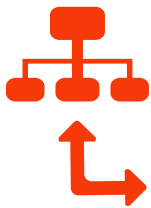


- 1) Must have less than 500 employees **or** meet NAICS Size Standards
- 2) Business operating on 2/15/2020.
- 3) Certify that loan is necessary to support ongoing operations, and funds will be used for eligible costs.
- 4) Certify that it has not obtained, and has application pending, for an SBA loan for the same costs.
- 5) Must have employees or contract workers receiving a salary/wages.



### Affiliation rules with size standards.

Other applicants must count employees of affiliates along with their own in determining compliance with the 500 employee limit. Affiliates include other businesses that are controlled by an affiliate that controls you.



Affiliation is about **control**.



### Basis of affiliation:

- 1 ownership interests
- 2 common management
- 3 newly organized concerns
- 4 stock options, convertible securities or a merger agreement
- 5 family members, persons with similar economic interests or economic dependence
- 6 subcontractor arrangements
- 7 joint ventures
- 8 franchise/license agreements
- 9 totality of the circumstances



1. Hospitality Industry (NAICS Code Starting with 72)
2. Franchise listed with SBA
3. Received direct financial assistance from an SBIC

# Paycheck Protection Program (PPP)

## Loan Amount

**Loan Amount:** lesser of \$10m or 2.5 months of "Payroll Costs"

**Deferral:** interest & principal payments 6-12 months

**Forgiveness:** up-to 100% of principal, see next page for details.

**Term:** 2 years

**Interest Rate:** 0.5%

**Risk:** no collateral or personal guarantees required

## Example

### Annual Average (12 months preceding loan origination)

	Salary	Other Comp	Non-comp. Payroll Costs	Loan Eligible
Employee 1	\$150,000	\$40,000	\$5,000	\$100,000
Employee 2	\$30,000	\$9,000	\$1,000	\$40,000
Employee 3	\$100,000	\$30,000	\$4,000	\$100,000

Total **\$240,000**

Total / 12 months x 2.5 months = **\$50,000**

### Use of Proceeds

- payroll
- costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- employee salaries, commissions, or similar compensations
- payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- rent (including rent under a lease agreement)
- utilities; and
- interest on any other debt obligations that were incurred before the covered period.

### "Payroll Costs"

- salary, wage, commission or similar compensation
- payment of cash tip or equivalent
- payment for vacation, parental, family, medical or sick leave
- allowance for dismissal or separation
- payment required for the provisions of group healthcare benefits, including insurance premiums
- payment of any retirement benefit
- payment of State or local tax assessed on the compensation of employees
- sum of payments of any compensation to or income of a sole proprietor or independent contractor not to exceed more than \$100,000 in year 1, as pro-rated for the cover period.

**Further guidance required within 30 days**

# Paycheck Protection Program (PPP)

## Forgiveness

### Assumptions

- Background** Company typically employs 10 making \$110k and 90 making \$30k.
- NO IMPACT** Company reduces comp. of \$110k employees by 40%.
- IMPACTS LOAN** Company reduces salary and wages of employees making less than \$100k by 35%.
- IMPACTS LOAN** Company reduces all employment by 15%.



<b>Loan Amount</b> <i>(capped at \$10m)</i> Employees with compensation over \$100k are capped at \$100k (\$8,333).	<b>\$5.5m</b>			
<b>Forgiveness: Employment Test</b> Employees represents "equivalent" employees, including full-time, part-time and contractors.		<b>100</b>	<b>85</b>	<b>-\$825k</b> 15% of loan amount
<b>Forgiveness: Compensation Test</b> Only applies to <b>employees</b> making compensation at \$100k or less. Any reduction above 25% triggers test.			<b>\$1.6m</b>	<b>-\$550k</b> 10% of loan value
<b>Revised Loan Amount</b> 100% of principal may be forgiven. Not more than 25% may have been used for non-payroll costs.				<b>\$4.125m</b> Loan Amount - \$1.375m

- Full-time equivalent employees (FTES) test:
- 1 employee working over 30 hrs per week = 1 FTE
- 2 employees working 15 hrs per week = 1 FTE (based on 120 hours of work per month, which equates to 30hrs/week)

# Economic Stabilization



**Further  
guidance  
required  
within 10 days**

The Secretary of Treasury and the Federal Reserve to deploy financing programs.

**\$29 billion**



loans and loan guarantees for cargo air carriers, passenger air carriers & businesses approved for inspection, repair, replacement, overhaul and ticket agents.

**\$17 billion**



loans and loan guarantees for businesses critical to maintaining national security.

**\$454 billion**



make loans and loan guarantees to, and other investments in, programs or facilities for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, States, or municipalities.



## Eligibility

- Credit is not reasonably available at the time of the transaction
- Organized in or under the laws of the US and has significant operations in and a majority of its employees based in the US.



## Rate & Term

- Rate must reflect risk of loan guarantee
- Market conditions to comparable obligations during COVID-19
- Term may not exceed 5 years



## Regulations

- No purchase of equity securities (12 months)
- No payment of dividends or capital distributions (12 months)
- Retain 90% of employment from March 24, 2020 - September 30, 2020.

## Mid-size Business Program

- Financing to banks and other lenders that make direct loans to businesses or nonprofit organizations, with between 500 and 10,000 employees
- 2% interest, no principal or interest for the first 6 months.
- Retain 90% of workforce at full compensation and restore February 1 employment + comp.
- No job-offshoring
- Union neutrality

## Main Street Program

- Confirms ability for the Federal Reserve to establish a Main Street small-to-mid sized business lending program.



# Coronavirus Loan Summary Page

## 1 Home Page – icemiller.com

## 2 COVID-19 Resource Center

### Coronavirus (COVID-19) Resource Center

COVID-19 and the current concerns of community spread have raised novel issues for us and many other businesses. The coronavirus continues to spread both in the United States and the global economy. However, it can be difficult to understand how the coronavirus will impact your business and what steps you can take to mitigate that impact. The key is to be prepared and to make sure you and your business understand the legal, regulatory and commercial ramifications of COVID-19. Given the fluid nature of this global health crisis, Ice Miller has organized a COVID-19 Task Force to help educate our clients about their risks and their companies' needs due to COVID-19.

As we continue to monitor developments related to the COVID-19 crisis and provide you with reliable resources, we want to assure you we are putting these in place that will allow us to respond in the same way of service and value you've come to expect from our firm. We will continue to let you know when the next few months have in store as it relates to the crisis. Our teams will be able to work remotely should the need arise, and we can maintain our client service regardless of where our work for you takes place. As of today, all of our offices remain open for business as usual.

#### Ice Miller Resources

##### Families First Coronavirus Response Act Bill Webinar

Our attorneys hosted a webinar to discuss the Families First Coronavirus Response Act bill and other considerations for employers during the COVID-19 pandemic on Wednesday, March 18 at 2 p.m. EDT. Please note this bill has since been signed into law by President Trump. The latest information about the bill is available here.

A copy of the webinar recording from March 18 is available here.

#### Business

- **NEW** New York Guidance, Order and Regulation Providing Borrower Protections in Response to COVID-19
- **NEW** COVID-19 - Summary of Federal Loan Programs
- Meeting Product Demand in the COVID-19 Era: What to Consider When Considering a New Product
- COVID-19 Business Impact Update
- What is an "Essential Business" Amid the COVID-19 Pandemic?
- Small Businesses Can Apply for Loans through the U.S. Small Business Administration's Economic Injury Disaster Loan Program
- Tax Obligations Delayed Due to COVID-19
- COVID-19: Impact on Reporting Obligations
- SEC Grants Exemptive Relief for Certain Investment Advisers Due to COVID-19
- Fiduciary Duties of Boards of Directors and Officers When Nearing or Within the Zone of Insolvency

## 3 Loan Summary

### COVID-19 - Summary of Federal Loan Programs

Congress has passed, or is in the process of passing, three phases of a Federal stimulus package to provide relief to those impacted by the Coronavirus pandemic. Phase 1 is comprised of Economic Injury Disaster Loans available under the existing Disaster Loan Program authorized by the U.S. Small Business Administration ("SBA"). Phase 2 does not feature a loan program. Phase 3 is the Coronavirus Act, Relief and Economic Security Act, HR 748 ("CARES Act") (1) The CARES Act features both a Paycheck Protection Program and an Economic Stabilization Loan Program geared for larger businesses.

- Professionals
- Related

Name	Law / Statute	Loan Program	Short Description
Phase 1: Coronavirus Response and Reauthorization Supplemental Appropriations Act 2020, 16/2020	H.R. 5075 (Law)	1. Economic Injury Disaster Loans through the Disaster Loan Program	1. Provides up to \$2 million per borrower in working capital loans for small businesses. Small businesses must meet a lot of size standards which vary per NAICS industry code.
Phase 2: Families First Coronavirus Response Act 1/18/2020	H.R. 6201 (Law)	N/A	1. No loan programs as part of this law, which addresses emergency preparedness and leave, health emergency, and tax credits for sick and family leave.
Phase 3: CARES Act 3/27/2020	H.R. 748 (Law)	2. Paycheck Protection Program; 3. Economic Stabilization Loans & Loan Guarantees	2. Makes temporary changes to the SBA's First loan program by providing 100% loan guarantees for SBA-administered loans of up to \$10 million per small business, for payroll losses and selected working capital costs. While administered by SBA, loans are issued by private lenders. Small businesses are defined as having less than 500 employees or meet SBA NAICS code size standards. 3. Provides loans and loan guarantees to businesses of all sizes in industries most impacted by the coronavirus pandemic through the Federal Credit Reform Act of 1980, administered by the Treasury Secretary. Eligible businesses must demonstrate covered losses resulting from the pandemic.

#### Small Businesses Can Apply for Loans Through the U.S. Small Business Administration's Economic Injury Disaster Loan Program (EIDL)

The SBA is making available its Economic Injury Disaster Loan Program to qualifying small businesses and nonprofits. The Federal government has announced that it has made \$10 billion available for this program, which is available to applicants in those states that have declared disasters to the SBA. As of March 25, 2020, all states and the District of Columbia have been declared disaster areas as "Disaster Areas," in which eligible businesses can apply for the loans. A full list of Disaster Area Declarations can be found here: [Disaster Area Declarations](#)

#### Eligibility

The CARES Act has modified the eligibility requirements for these loans. In order to qualify as a "small