

Overview of SBA EIDL Program (Working Capital Loans)

Who Is Eligible?

- Small Businesses
- Small Agricultural Cooperatives
- Small Aquaculture Businesses
- Private Non-Profit Organizations

To Be Eligible These Must:

Be specifically impacted by the disaster
Have a “tangible” and “significant”
physical presence in the disaster area

To Be Approved These Must:

- Have credit history acceptable to SBA
- Be deemed able to repay by SBA

How Much Can I Borrow?

- Up to \$2 million with collateral
 - Real estate is preferred
 - Lack of collateral ≠ rejection
- Up to \$25,000 unsecured
- Maximum Loan Period: ≤ 30 years

Interest Rates:

- For small businesses - 3.75%
- For Non-Profits – 2.75%

Who is NOT Eligible

- Agricultural Enterprises (Farms)
 - As defined in §18(b)(1) of the Small Business Act
- Religious Organizations
- Charitable Organizations
- Gambling Concerns
- Casinos, Racetracks, etc.

Loan Conditions

These working capital loans may be used to pay fixed debts, payroll, accounts payable, and other bills that could have been paid had the disaster not occurred. These loans are **NOT** to be used for revenue replacement or for expansion

Overview of SBA EIDL Program (Cont'd)

SBA EIDL Differentiators

- EIDL funds come from U.S. Treasury
- Applications are handled directly by SBA's Disaster Assistance Program
- Applicants do not go through a bank
- No cost to apply
- No obligation to take loan if offered
- Applicants with existing SBA disaster loans can qualify for EIDL for the current disaster, but the two loans cannot be consolidated

To Apply

Visit the Online Portal:

<https://disasterloan.sba.gov/ela>

OR

Send the application in via mail to:

U.S. Small Business Administration,
Processing and Disbursement Center,
14925 Kingsport Road,
Fort Worth, TX 76155.

Note: Ensure your application is COMPLETE before submitting. Missing information is THE biggest cause of delay

Filing Requirements

- Completed application (SBA Form 5)
- IRS Form 4506T for applicant, principals and affiliates.
- Complete copies of the most recent Federal Income Tax Return.
- SBA Form 2202 - Schedule of Liabilities
- Personal Financial Statement (SBA Form 413)

Other Information That May be Requested:

- Personal tax returns for all principals
- Year-End Financial Statements
- Current year-to-date Profit & Loss Statement
- SBA form 1368 (Monthly Sales Figures)*

* This is especially important for EIDL Loans

SBA Affiliation Rules Overview

- **General Principle of Affiliation:** Affiliation exists when one entity has the power to control another or when a third party (or parties) has the power to control both. Power to control may arise through ownership, management, or other relationships or interactions between the parties.
 - › The exercise (or lack thereof) of this power is irrelevant. Its existence is the central issue.
 - › This power may be positive (power to take action) or negative (power to prevent action).
- SBA will consider the totality of the circumstances, and may find affiliation even in the absence of a singular determining factor sufficient to constitute affiliation
- SBA will consider all affiliates when determining the size of a concern at issue

SBA Affiliation Rules Overview (Cont'd)

Vectors of “power to control” that are evaluated by SBA when considering questions of affiliation include:

1. Ownership
2. Stock Options or M&A Agreements
3. Common Management
4. Identity of Interests
5. Newly Organized Concern Rule
6. Contractual Relationships or Economic Dependency
7. Joint Ventures
8. Prime Contractor-Subcontractor Dependency
9. Franchise License Agreement

Under certain circumstances, a judgement of affiliation may be contested and rebutted through presentation of evidence

Exceptions to the General SBA Rules on Affiliation (Non-Exhaustive List)

The SBA will not find affiliation if any of the following apply:

1. A Business that is wholly owned or substantially owned by investment or development companies that are licensed or qualified under the SBIA (1958), are not considered affiliates of those investment or development companies
2. Business is owned by Indigenous Peoples Organization
 - i. e.g. Indian Tribes, ANOs, NHOs, CDCs
3. Business is part of SBA approved pool of concerns for a joint program of R&D or defense production
4. Business leases employees, or is a co-employer w/ a PEO
5. Mentor-Protégé pair under 8(a) will not be deemed affiliates based on this relationship alone
6. Agricultural Cooperative member-shareholders are not affiliated with the cooperative by virtue of membership

Overview of SBA 7(a) Program

Who Is Eligible?

- Small Businesses
- Non-Profit Organizations - excluding those receiving Medicaid Expenditures
- Veteran's Organizations
- Sole-Proprietors
- Independent Contractors
- Self-Employed Individuals

How Much Can I Borrow?

- 7(a) Loan: maximum amount is the lesser of
 - 2.5 x average monthly payroll costs for the year before the loan is made; Plus the outstanding EIDL loan balance made after January 31, 2020 and refinanced under 7(a)
 - Or \$10,000,000
- SBA Express Loan: limit increased to \$1,000,000 from \$350,000 through 12/31/20

Considerations For Approval

- In operation on February 15, 2020
- Had employees for whom the borrower paid salaries and payroll taxes or paid an independent contractor
- Is affected by COVID-19
- Not more than the greater of:
 - 500 employees
 - Size standard in number of employees under SBA rules
- Business with not more than 500 people per physical location with an NAICS code beginning with 72 (Hospitality, Bars and Restaurants) are eligible

Allowable Uses

- Payroll support:
 - Employee salaries
 - Paid sick or medical leave
 - Insurance premiums
- Payments of interest on mortgage obligations
- Rent
- Utility payments

Allowable Uses – Detailed View

Covered Mortgage Obligation

- Any indebtedness or debt instrument incurred in the ordinary course of business that –
 - Is a liability of the borrower;
 - Is a mortgage on real or personal property; and
 - Was incurred before February 15, 2020.

Covered Rent Obligation

- Any rent obligation under a leasing agreement in force before February 15, 2020

Utility Payments

- Any payment for a service for the distribution of –
 - Electricity
 - Gas
 - Water
 - Transportation
 - Telephone
 - Internet Access
- Service had to begin before February 15, 2020

Overview of SBA 7(a) Program (Cont'd)

Loan Terms

- Loan Interest:
 - Not to exceed 4%
- Loan Duration:
 - For amounts not forgiven, 10 years from the date the borrower applies for loan forgiveness
- No prepayment fees
- Complete payment deferment for at least 6 months and not more than a year
- Borrower and lender fees are waived
- During covered period (2/15-6/30):
 - Requirement that a small business concern is unable to obtain credit elsewhere doesn't apply to this loan
 - Collateral and personal guarantee requirements are waived under this program

Source of Capital

- SBA approved banks have the delegated authority to approve loans
- Loans are 100% guaranteed from the federal government

Exclusion

- Borrowers that have received a 7(b)(2) SBA Economic Injury Disaster Loan beginning on January 31, 2020 and ending on date covered loans are made available for the purposes of paying payroll costs and other obligations allowed under 7(a). Duplication Rule



SBA 7(a) Application Process

To Apply

Visit the Online Referral Tool:

<https://www.sba.gov/funding-programs/loans/lender-match>

A free online referral tool that connects small businesses with participating SBA-approved lenders

Process:

1. Describe your needs
2. Get matched in 2 days
3. Talk to lenders
4. Apply for a loan

Deadline To Apply: June 30, 2020

Filing Requirements

- Documentation Needed:
 - Number of FTE's and pay rates
 - IRS payroll tax filings
 - State income, payroll, and unemployment insurance filings
 - Cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments
- Certification from a representative of the eligible recipient authorized to make such certifications that:
 - Documentation is true and correct
 - Amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments