

CARES Act FAQs: Helpful Loan Guidance for Businesses

K·Coe Tackles the Who, What, Why, When around COVID-19 Loan Programs

Since its passage on March 27, the Coronavirus Aid, Relief, and Economic Security (CARES) Act continues to be aggressively dissected, digested, and questioned by lawyers, accountants, HR and payroll administrators alike – with the intent to help businesses secure funding to endure the economic downturn caused by the COVID-19 pandemic.

In an effort to share guidance from the CARES Act, K·Coe experts have been holding virtual town hall meetings and taking live questions from businesses nationwide. Below, we have created a summary of the loan programs as outlined under the CARES Act, as well as recommendations from our experts.

It's important to note that things will continue to move fast, there is still uncertainty for some areas, and items may change as clarifications are expected to be made moving forward.

Stimulus Program: Progression in Phases

Just a quick review of the momentum and pace of the efforts to provide Coronavirus impact relief:

- **Phase I:** included the passage of \$8.3 billion in funding for immediate needs. More importantly, it classified the Coronavirus as a “disaster” which opened up the disaster loan program in an effort to stabilize businesses.
- **Phase II:** Families First Coronavirus Response Act (FFCRA) outlined the HR-related provisions which included: Emergency Family and Medical Leave Expansion, Emergency Unemployment Insurance Stabilization, Emergency Paid Sick Leave, and Tax Credits for Paid Sick and Paid Family and Medical Leave.
- **Phase III: CARES Act – this is where we are at today, an overview of the entire Stimulus package can be found [here](#), but we have outlined the business loan programs under this Act below.**
- **Phase IV:** this is expected to be in the works, and would likely include an expansion of terms and deadlines (intended to broaden or lengthen programs or terms if it becomes economically necessary due to COVID-19).

Highlights of CARES Act Stimulus Programs for Businesses

- \$2 trillion stimulus to inject into the economy
- **Paycheck Protection Program (PPP)** – 7(a) loan program with loan forgiveness (\$349 billion): important changes have been made to this existing program in response to COVID-19; pros: loan payment forgiveness, huge source of funding, long list of eligible businesses
- **EIDL Loans** (\$10 billion): modified with new criteria and opened up eligibility; (clarifications on Ag business eligibility is being requested)

- **Economic stabilization fund** (\$500 billion): includes additional funding for other mission-critical industries necessary to keep the U.S. running – expected to be ‘type of business’ dependent and NAICS code-related
- **Agriculture** (\$9.5 billion): yet to be determined; the Secretary of Agriculture will provide administrative guidance on how funds will be allocated
- **Commodity Credit Corporation** (\$14 billion): yet to be determined; it is presumed that this could be used for an additional round of MFP payments to producers

Paycheck Protection Program (PPP) – High Level Overview

Why should you care about this program?

- Funding for small businesses
- Ability to cover some operating expenses
- Potential debt forgiveness opportunity

PPP Eligible Applicants:

- Small business
- Any business or 501(c)(3) non-profit with fewer than 500 employees
- Businesses in some industries can have more than 500 employees (depends on NAICS code)
 - 500 employees per location limitation for NAICS code 72 (restaurants, food service, hotels, casinos)
- Not limited by SBA income limitations for small business concerns.
- Affiliation rules can be waived in some circumstances. Affiliation means the same businesses or individuals have 50% or greater control of two or more entities.

For determining if a business employs not more than 500 employees, the term “employee” includes: any full time employee, part time employee or other basis, but not “full time equivalent” employees.

PPP Loan Amount

- Maximum loan amount is lesser of:
 - 2.5 times average monthly payroll incurred during a one-year period before the date on which the loan is made (with adjusted calculations for businesses not in business for full year), plus
 - Outstanding amount of an SBA b(2) loan issued after Jan. 31, 2020 and ending on date on which the covered loans are made available to be refinanced under the covered loan.
 - Or \$10 million

PPP Definition of Payroll Costs

- Compensation with respect to employees that is a salary, wage, commission or similar compensation
- Allowance for dismissal or separation
- Payment of:
 - cash tip or equivalent
 - vacation, parental, family, medical or sick leave
 - the provisions of group health care benefits, including insurance benefit
 - retirement benefit
 - state or local tax assessed on the compensation of employees

Does NOT include:

- *Compensation of employee annual salary greater than \$100,000 as prorated for the covered period*
- *Any compensation of an employee whose principal place of residence is outside the U.S.*
- *Federal income tax withholding, employees' FICA tax withholdings, and employer's FICA tax responsibility*
- *Qualified emergency paid sick leave wages under the FFCRA*
- *Qualified public health emergency leave wages under the FFCRA*

PPP Eligible Use of Funds

- Payroll costs, including
 - Costs related to continuation of group health care benefits during periods of paid sick, medical, or family leave and insurance premiums
 - Employee salaries, commissions or similar compensation
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligations)
- Rent (including rent under a lease agreement)
- Utilities

PPP Certification – Borrowers Must Certify That:

- The uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
- Funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
- The eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and
- During the period beginning on February 15, 2020 and ending on December 31, 2020, the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.

PPP Loan Forgiveness

- Calculated over an eight-week period starting on the date of the origination of a covered loan
 - Payroll
 - Payments of interest on covered mortgage obligation (no prepayment or principal payments)
 - Any payment on any covered rent obligation
 - Any covered utility payment
- Debt forgiveness excluded from gross income
- Forgiveness amount reduced by (election of borrower)
 - Dividing number of employees during the covered period by average monthly number of employees from Feb. 15 – June 30, 2019
 - Average number of full time equivalent employees Jan 1 – Feb 29, 2020
 - Reduction by more than 25% of salary or wages (<\$100k) during most recent quarter prior to covered period.
 - 30 days after enactment to rehire or raise salaries
- Application for Forgiveness and requirement of documentation
 - Lender held harmless if documentation is in hand

PPP Additional Notes

- Funds that are not forgiven must be repaid over a maximum of two years with an interest rate of 0.5%
- Normal SBA loan and guarantee fees are waived
- No requirement that credit is not available
- No personal guarantee required
- No collateral required
- Applications:
 - Starting April 3, 2020, small businesses and sole proprietorships can apply.
 - Starting April 10, 2020, independent contractors and self-employed individuals can apply.
 - We encourage you to apply as quickly as you can because there is a funding cap.
 - You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating.

SBA Economic Injury Disaster Loan (EIDL) Program – High Level Overview

Under the Small Business Act section of the CARES Act, the Small Business Administration (SBA) is authorized to make EIDL loans of up to \$2 million to qualified small businesses and non-profits.

Why consider an EIDL loan?

- Ability to use along with Paycheck Protection Program (if not duplicated or applied to PPP payroll expenses)
- Covers operating expenses and working capital
- Potential for longer terms

EIDL Eligible Entity

- Business with not more than 500 employees
- Any individual who operates under a sole proprietorship, with or without employees, or as an independent contractor
- A cooperative with not more than 500 employees
- An ESOP (as defined in the Small Business Act) with not more than 500 employees or,
- A tribal small business concern with not more than 500 employees
- Additional eligible entities: Private nonprofit organizations and small agriculture cooperatives

EIDL Coverage

- Repaying obligations that can't be met due to revenue losses
- Meeting increased costs to obtain materials unavailable from the applicant's original source due to interrupted supply chains
- Making rent or mortgage payments
- Maintaining payroll
- Providing sick leave to employees unable to work due to direct effect of COVID-19

EIDL Loan Amount

- \$2 million max; amount will be determined case by case

EIDL Terms

- Interest rate of 3.75% for small business and 2.75% for non-profits
- Maximum of 30-year payback period
- **EIDL is not eligible for debt forgiveness**

EIDL Waiver

- Personal guarantee on advances and loans below \$200,000
- Requirement that an applicant needs to have been in business for the one year period before disaster, except for business not in operation on 1/31/2020
- Credit elsewhere

Recommendations

As K·Coe advisors continue to evaluate these loan programs with businesses, and assess tax impacts and other potential long-term decision impacts when deciding upon which, or whether to choose both, loan programs – there are a few pro tips worth sharing.

Much of the impact will be need to be determined on a case-by-case basis, and programs should be picked in accordance with eligibility, applicability and impact. For example, a business with multiple entities will have added complexity, and different industries will demonstrate greater financial impact.

5 Pro Tips:

1. We encourage every business to look at these programs. Check eligibility rules and assess how much the funding would benefit your business.
2. Businesses, especially those with complex structure or multiple entities, should undergo a [diagnostic assessment](#) with their strategic advisor before choosing any program.
3. Enlist compliance help if needed: tracking of expenses and expenditures will be necessary to demonstrate need for to stabilize business (due to reduced number of employees and payroll), and to request loan forgiveness (for PPP)
4. Assess and pursue suitable loan applications (advisors can help here too)
5. Not all businesses will need professional advisory help for loan assessments and applications, but we do recommend working with a lender for calculations and treatment to ensure guidelines are met.

Please note: With clarifications and guidance updates expected from the Treasury ongoing, all information provided above is current as of 3/31/2020.

For more CARES Act details and answers from K·Coe experts, you can view the full recording: [“CARES Act & SBA Loan Update webinar.”](#)

For diagnostic assessment help, contact a K·Coe advisor, or visit: <https://www.kcoe.com/business-impact-diagnostic/>

Should you have any additional questions, please contact a K·Coe advisor. For more business guidance, updates, and Town Hall meetings on COVID-19, visit: [kcoe.com/covid19/](https://www.kcoe.com/covid19/)