

K·COE ISOM
VIRTUAL
TOWNHALL

CARES Act and
SBA Loan Update

SBA information as of 4/21/2020, subject to changes.



K·COE
ISOM

kcoe.com

Stimulus Programs

- **Phase 1: H.R. 6074**, Coronavirus Preparedness and Response Supplemental Appropriations Act 2020.
 - \$8.3 billion coronavirus spending bill
 - Economic Injury Disaster Loan (EIDL) (7)(b) program – applied to coronavirus
- **Phase 2: H.R. 6201**, Families First Coronavirus Response Act
 - Division C: Emergency Family and Medical Leave Expansion Act.
 - Division D: Emergency Unemployment Insurance Stabilization and Access Act of 2020
 - Division E: Emergency Paid Sick Leave Act
 - Division G – Tax Credits for Paid Sick and Paid Family and Medical Leave

Stimulus Programs

- **Phase 3: H.R. 748, CARES Act.**

- \$2 trillion stimulus
- Paycheck Protection Program – 7(a) loan program with loan forgiveness. \$349 billion.
- \$10 billion for EIDL Loans
- \$500 billion – economic stabilization fund
- \$9.5 billion – Secretary of Agriculture
- \$14 billion – Commodity Credit Corporation

Stimulus Programs

- **Phase 3: H.R. 748, CARES Act. Amendment Proposed**
 - \$310 billion additional funds for PPP loan
 - \$250 billion unrestricted
 - \$60 billion set aside for smaller institutions
 - \$30 billion for lenders with assets less than \$10 billion
 - \$30 billion for lenders with assets between \$10 billion and \$50 billion
 - \$50 billion for EIDL loans
 - \$10 billion for EIDL emergency grants
 - \$2.1 billion for SBA administrative expenses
 - \$75 billion for hospitals
 - \$25 billion for testing
 - \$11 billion distributed to states
 - Remaining to CDC, BARDA, FQHC, NIH, NCI and others for research, development and deployment of testing

USDA Announcements

- Direct Support to Farmers and Ranchers - \$16 Billion
 - Using the \$9.5B secured in CARES act and \$6.5B set aside for the CCC funding in the CARES Act
 - \$5.1 Billion for cattle
 - \$2.9 Billion for dairy
 - \$1.6 Billion for hogs
 - \$3.9 Billion for row crop producers
 - \$2.1 Billion for specialty crops producers
 - \$500 Million for other crops
- USDA Purchase and Distribution - \$3 Billion

Paycheck Protection Program

- Why you should care about this program?
 - Funding for small businesses
 - Ability to cover some operating expenses
 - Potential debt forgiveness opportunity

Eligible Applicants

- Independent contractors, sole proprietors, self-employed individuals
- Any business or 501c3 non-profit with <500 employees
- Can have >500 employees depends on NAICS code
- Not limited by SBA income limitations for small business concerns.
- 500 employees in one location for NAICS code 72 (restaurants, food service, hotels, casinos)
- Additionally, a business can qualify for the Paycheck Protection Program as a small business concern if it met both tests in SBA's "alternative size standard" as of March 27,2020:
 - (1) maximum tangible net worth of the business is not more than \$15 million; and
 - (2) the average net income after Federal income taxes (excluding any carry-over losses)of the business for the two full fiscal years before the date of the application is not more than \$5 million.

Determining Employee Headcount

- For determining if business employs not more than 500 employees the term employee includes any full time or part time employee or other basis.
 - Only include employees whose residence is US
 - Exclude H2A labor
- SBA guidelines released 4/6/2020 state:
 - Average employment over the same time periods used for payroll, or
 - Borrower may elect to use SBA's usual calculation
 - Average #employees per pay period in the 12 completed calendar months prior to the date of the loan application

Certification

- 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;
- That 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, that 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.

Loan Amount

- Maximum loan amount is lesser of:
 - Maximum loan amount 2.5x average monthly payroll incurred during calendar year 2019
 - Seasonal businesses may elect to use average monthly payroll from February 15, 2019 and June 30, 2019 or
 - If business was started after June 30, 2019 you may elect to use the average monthly payroll from January 1, 2020 to February 29, 2020
 - Outstanding Amount of b(2) loan issued after Jan. 31, 2020 and ending on April 3, 2020 used for payroll costs to be refinanced under the covered loan.
 - Or \$10 million

Definition of Payroll Costs

- Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee)
- Employee benefits including costs for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit;
- State and local taxes assessed on compensation; and
- For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.

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 US
- Taxes imposed or withheld under chapters 21, 22 or 24 of IRS code of 1986 during covered period,
- Qualified sick leave wages for which a credit is allowed under section 7001 of Families First Coronavirus Response Act (public law 116-127)
- Qualified family leave wages for which a credit is allowed under section 7003 of the FFCRA (public law 116-127)

Sole Proprietor Payroll Cost Calculation

- If 2019 tax reporting has not yet been completed, the sole proprietor must fill out a Schedule C. Banks will be requesting 2019 Schedule C for substantiation.
- Schedule F filers: The regulations do not indicate whether this guidance is identical for Schedule F activities; however, based on the nature of Schedules F and C, we are assuming the calculations will be identical.
- SBA will issue additional guidance for those individuals with self-employment income who were not in operation in 2019 but who were in operation on February 15, 2020.
- You must have claimed, or be entitled to claim, a deduction for such expenses on your 2019 Form 1040 Schedule C or F for them to be permissible use during the eight-week period following the first disbursement of the loan in 2020. For example, if no rent expense claimed in 2019, then no rent may be claimed for forgiveness.

Sole Proprietor Payroll Cost Calculation Cont.

- For Schedule C (or F) activity **without** employees

| | |
|----------------|--|
| Step 1: | Find (or compute) 2019 Schedule C net profit amount up to \$100,000 (Schedule C, line 31; Schedule F, line 34) |
| Step 2: | Calculate average monthly net profit amount: divide amount in Step 1 by 12 |
| Step 3: | Multiply average monthly net profit by 2.5 |
| Step 4: | Add outstanding amount of EIDL made between 1/31/20 and 4/3/20 you seek to refinance, less the emergency grant (because it does not have to be repaid) |

Sole Proprietor Payroll Cost Calculation Cont.

- Schedule C (or F) activity **with** employees

| | |
|-----------------|---|
| Step 1: | Calculate 2019 payroll by adding the results from Steps 1a-1c: |
| Step 1a: | 2019 Schedule C net profit amount up to \$100,000 (Schedule C, line 31; Schedule F, line 34) |
| Step 1b: | 2019 gross wages and tips paid to employees whose principal place of residence is in the United States. Form 941 filers: Add each quarter's Taxable Medicare Wages & Tips, Line 5c, column 1. Form 943 filers: Total wages subject to Medicare tax, line 4. |
| Step 1c: | 2019 employer health insurance contributions (Sch. C, Line 14; Sch. F, Line 15), retirement contributions (Sch. C, Line 19; Sch. F, Line 23), and state and local taxes assessed on employee compensation (SUTA from state quarterly wage reporting) |

Sole Proprietor Payroll Cost Calculation Cont.

- Schedule C (or F) activity **with** employees

| | |
|----------------|--|
| Step 1: | Calculate 2019 payroll by adding the results from Steps 1a-1c: |
| Step 2: | Calculate average monthly amount: divide amount in Step 1 by 12 |
| Step 3: | Multiply average monthly amount by 2.5 |
| Step 4: | Add outstanding amount of EIDL made between 1/31/20 and 4/3/20 you seek to refinance, less the emergency grant (because it does not have to be repaid) |

Eligible use of funds

- Payroll costs, including benefits;
- Interest on mortgage obligations, incurred before February 15, 2020;
- Rent, under lease agreements in force before February 15, 2020; and
- Utilities, for which service began before February 15, 2020

Loan Forgiveness

- Calculated over an 8-week period starting on the date of the first loan disbursement
 - Payroll
 - Payments of interest on covered mortgage obligation (no prepayment or principal payments)
 - Any payment on any covered rent obligation
 - Any covered utility payment
- It is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs

Loan Forgiveness (cont.)

- Forgiveness amount reduced by
 - Dividing number of employees during the covered period by average monthly number of employees from February 15, 2019 to June 30, 2019 or January 1, 2020 to February 29, 2020
 - Reduction by more than 25% of salary or wages (<\$100k) during most recent quarter prior to covered period.
 - June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020
- Application for Forgiveness and requirement of documentation
 - Lender held harmless if documentation is in hand

Forgiveness Calculation

- Step 1: Maximum forgiveness = PPP loan amount
- Step 2: Determine reduction calculation
 - Was there any reductions in Full Time Employees (FTE)
 - Was there any reductions in wages, salaries greater than 25% for employees under \$100,000 salary
- Step 3: Calculate actual forgiveness amount
 - Step 1 minus Step 2
- Step 4: Remember 75/25 rule
 - Payroll costs have to be at least 75% of requested forgiveness amount
 - Actual forgiveness amount may be smaller if payroll is not 75% of actual forgiveness amount

Forgiveness Example 1

- Business with 50 average Full Time Employees (FTE) during 8-week period and 40 average FTE during February 15, 2019 and June 30, 2019 and they had no changes to salary or wages. PPP Loan amount of \$75,000.
- Maximum Forgiveness: \$75,000.00
 - No reduction in amount forgiven as no decrease in FTE or wages
 - Non-payroll expenses can be no more than \$18,750.00 – 25% of forgiveness amount

Forgiveness Example 2

- Business with 90 average Full Time Employees (FTE) during 8-week period and 100 average FTE during February 15, 2019 and June 30, 2019 and they had no changes to salary or wages. PPP Loan amount of \$150,000.
- Maximum Forgiveness: \$135,000.00
 - There was a 10% reduction in FTE but no wage reduction
 - Non-payroll expenses can be no more than \$33,750 – 25% of forgiveness amount

Additional Notes

- Funds that are not forgiven will then be termed out up to 2 years maximum with a maximum 1% interest
 - All payments are deferred for 6 months; however interest will accrue over this period
- Waiver of normal loan/guarantee fees
- No requirement that credit is not available
- No personal guarantee
- No collateral
- Debt forgiveness excluded from gross income

When can I apply?

- Starting April 3, 2020, small businesses and sole proprietorships
- Starting April 10, 2020, independent contractors and self-employed individuals
- Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program

SBA Economic Injury Disaster Loan (EIDL)

- Why an EIDL loan?

- Ability to use along with Paycheck Protection Program
- Covers operating expenses and working capital
- Potential for longer terms

SBA EIDL Programs

■ 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 section 3 of the small business act (15 U.S.C 632)) with not more than 500 employees or
- A tribal small business concern, as described in section 31(b)(2)(C) of the Small Business Act (15 U.S.C. 657a(b)(2)(c), with not more than 500 employees
- ***An Agriculture enterprise with no more than 500 employees***

■ Additional eligible entities-

- Private nonprofit organizations and small agriculture cooperatives

Emergency Grant with EIDL

- Advance of funds from EIDL request
- Shall be not more than \$10,000
 - Based on employee count, \$1,000 per employee up to the maximum
- Use of funds
 - (A) providing paid sick leave to employees unable to work due to the direct effect of the COVID-19;
 - (B) maintaining payroll to retain employees during business disruptions or substantial slowdowns;
 - (C) meeting increased costs to obtain materials unavailable from the applicant's original source due to interrupted supply chains;
 - (D) making rent or mortgage payments; and
 - (E) repaying obligations that cannot be met due to revenue losses.
- This emergency grant of funds can be forgiven even if you are denied on your EIDL.

SBA EIDL Program

- **Loan Amount**

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

- **Terms**

- Interest rate of 3.75% for small business and 2.75% for non-profits
- Maximum of 30 year payback period

- **Waiver**

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

- **Not eligible for debt forgiveness**

SBA EIDL Program (cont.)

■ What it covers

- 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

Ineligible Uses of Funds

- Dividends and bonuses
- Disbursements to owners, unless for performance of services
- Repayment of stockholder/principal loans (with exceptions)
- Expansion of facilities or acquisition of fixed assets
- Repair or replacement of physical damages
- Refinancing long term debt
- Paying down or paying off loans provided, or owned by another federal agency (including SBA) or a Small Business Investment Company
- Payment of any part of direct federal debt (including SBA loans) except IRS obligations
- Relocation

Q&A

Presenters



Kala Jenkins
Senior Associate
Kala.Jenkins@kcoe.com



Brian Kuehl
Partner
BKuehl@kcoe.com



kcoe.com