

# The National Association of REALTORS®

## Coronavirus: SBA CARES Act FAQs

June 4, 2020

NAR has been working closely with Congress and the Administration to ensure the interests of REALTORS® and their clients are protected in any federal action in response to COVID-19. Many REALTORS® are small businesses, or work with them as clients. In the most recent relief package passed into law, the "Coronavirus Aid, Relief, and Economic Security Act" or CARES Act, there were significant provisions aimed at assisting small businesses during this difficult time. The CARES Act appropriated more than \$360 billion total for new Small Business Administration (SBA) programs - the 7(a) Paycheck Protection Program loans and the Economic Injury Disaster Loans (EIDL) advance grants program; follow-up legislation in April added an additional \$370 billion (\$310 billion for PPP and \$60 billion for EIDLs) to meet demand for the loans

Provided below are a number of Q&As to address frequent questions about what these programs are, who is eligible and how to apply. [Also view this info graphic for differences between the two programs](#). We continue to learn more about these relief measures daily and will update this document as events warrant.

As of June 4,, the PPP loan program still has funding and lenders are accepting applications, but the SBA has paused taking new applicants for EIDLs (with the exception of agriculture businesses) due to low funding. The SBA also reduced the maximum EIDL amount to \$150,000.

**Note: on May 28, the House passed the “PPP Flexibility Act” by a vote of 417-1; on June 3 the Senate passed it by unanimous consent, and it has been sent to the President to sign into law. This bill increases flexibility for borrowers in how they can use their PPP loans, including lowering the amount required to go toward payroll costs from 75% to 60% and lengthening the period to use it from 8 to 24 weeks, through December 31. It also increases the repayment period from 2 to 5-years. The next step is for the SBA and the Treasury to released updated guidance and forms to reflect the legislative changes made. NAR will update its resources with any changes or new information as it is released.**

**[VIDEO - How To Secure Your Business Through the CARES Act](#): Hear directly from quick-acting REALTORS®, with businesses of various structure and sizes, who successfully obtained Paycheck Protection Program (PPP) Business Loans and Economic Injury.**

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## What is the SBA 7(a) Paycheck Protection Program?

### 1. What relief can small businesses get through the SBA 7(a) Paycheck Protection Program?

The SBA 7(a) Paycheck Protection Program loans (**PPP loans**) are intended to cover expenses for a business during any 8-week period between February 15, 2020 and June 30, 2020. They can be used for payroll costs, rents, mortgage interest, and utilities. **The PPP Flexibility Act, passed on June 3, extends the program through the end of the year and gives borrowers up to 24-weeks to disburse PPP loans. Updated guidance from the SBA and Treasury are forthcoming.**

Businesses can get the lesser of either 2.5x the average monthly payroll expenses they had for the year prior to the loan or \$10 million dollars. When calculating payroll expenses, individual employee salaries are capped at \$100,000 (prorated per month).

### 2. What is included in “payroll expenses” for purposes of the 7(a) PPP loans?

Payroll expenses under the CARES Act are the sum of:

- Salary, wage, or commission;
- Cash tips;
- Payment for leave;
- Dismissal or separation allowances;
- Group health care benefits payments (including insurance premiums);
- Retirement benefit payments;
- State or local tax on the compensation of employees;
- The income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation.

Payroll expenses under the CARES Act do *not* include:

- Taxes withheld by the IRS under Chapters 21, 22, or 24;
- Compensation to employees who live outside of the U.S.; or
- Sick leave/wages for which they’ve already received a credit under the Families First Coronavirus Response Act.

### 3. Are there loan fees for the SBA 7(a) PPP loan?

No. The SBA is waiving ordinary application fees for the 7(a) PPP loans.



**4. Is any portion of the SBA 7(a) loan forgivable?**

Yes, up to 100% of the 7(a) PPP loans are forgivable. Small businesses with employees and independent contractors have different forgiveness specifications though.

For small businesses with employees to be eligible for loan forgiveness, borrowers must put the loan money toward an eligible use, with at least 60% of the total amount going toward payroll costs, and keep the same number of employees on staff. As the number of employees is lowered, the forgivable amount of the loan is phased out by a proportionate percentage. However – there is an exception: you will not be penalized for a reduction in employee numbers if you restore employee numbers by December 31. **(This paragraph reflects the changes in the PPP Flexibility Act, passed by Congress on June 3.)**

[The U.S. Chamber of Commerce has put together a helpful guide for small businesses, which includes the calculation businesses can do to determine their loan amounts and forgiveness eligibility under the program, which you can access here.](#)

Eligible uses for a 7(a) PPP loan are:

- Payroll costs;
- Continuation of group health care benefits;
- Employee salaries, commissions, or “similar compensations”;
- Payments of interest on any mortgage obligation;
- Rent;
- Utilities; and
- Interest on any other debt obligations that were incurred before the covered period (beginning February 15, 2020).

Independent contractors are eligible to have an amount equal to an 8-week share of their 2019 net profit automatically forgiven under the program (as shown on their IRS Form 1040 Schedule C, Line 31, and capped at \$15,385).

[The SBA released updated interim final rules for PPP loans clarifying implementation for independent contractors on April 14, which you can access here.](#)

**5. What if a portion of my 7(a) PPP loan is not eligible for forgiveness?**

SBA 7(a) PPP borrowers whose loans are not eligible for 100% forgiveness have five years to repay the loan, at an interest rate of 1%–The remaining loan balance after forgiveness is 100% guaranteed by the SBA.

## 6. Will forgiven loan amounts be counted as income for tax purposes?

No. Any forgiven loan amounts under the SBA 7(a) PPP program will not count as income.

## 7. What documentation will I be required to provide to qualify for forgiveness?

On May 15 the Small Business Administration (SBA) and the Department of the Treasury released the [Paycheck Protection Program \(PPP\) Loan Forgiveness Application and detailed instructions for the application, which you can find here](#). The application has four components: (1) the PPP Loan Forgiveness Calculation Form; (2) PPP Schedule A; (3) the PPP Schedule A Worksheet; and (4) the (optional) PPP Borrower Demographic Information Form. All Borrowers must submit the PPP Loan Forgiveness Calculation Form and the PPP Schedule A to their Lender.

The forms include instructions for how borrowers can calculate their forgivable loan amount, including what the eligible payroll and non-payroll costs. The SBA is expected to release further guidance for borrowers on the forgiveness process.

**Note: The PPP Flexibility Act makes several changes to the forgiveness requirements for PPP loans, and extends the timeline for their use. The SBA and the Treasury Department are expected to release updated guidance and forms shortly to reflect these changes; NAR will update its resources as soon as they are available.**

## 8. Will I be audited by the SBA/Treasury before qualifying for forgiveness?

If you receive a PPP loan of \$2 million or more, yes; the Treasury Department announced in April that PPP loans of that size will be subject to auditing upon submission of an application for loan forgiveness. Further details on the audit process are forthcoming.

On May 13, the Treasury Department released updated guidance clarifying that smaller loans of less than \$2 million will not face the same heightened scrutiny when applying for forgiveness. It states that such borrowers will be deemed to have made the required good faith certification that such a loan was necessary.

## Who is eligible for the SBA 7(a) Paycheck Protection Program?

### 1. Who is eligible for a PPP loan?

Small businesses that meet current SBA requirements, any business with 500 or fewer employees, sole proprietors, independent contractors, and “gig economy” workers qualify for the 7(a) PPP loans.

**2. Did you say independent contractors are eligible to receive a PPP loan?**

Yes, sole proprietors and independent contractors are eligible for the SBA 7(a) PPP loan program. They will have to provide documentation to prove eligibility, including payroll tax filings to the IRS, a 2019 IRS Form 1040 Schedule C, Forms 1099-MISC, and income and expenses from the sole proprietorship. They also need to supply their lender with documentation that they were in operation on or before February 15, 2020 – such as a bank statement, 2020 invoice, or book of record.

**3. I am an employer who has full-time, salaried employees, as well as independent contractors working for me. Do I include the independent contractors in my headcount/payroll expenses?**

No. On April 2, the SBA released its interim final rule on the SBA 7(a) PPP loans, [which you can read here](#). The rule clarifies that because independent contractors can apply for their own loans under the program (beginning April 10), they should not be included in the payroll or employee count calculations of other businesses.

**4. Are franchises considered “small businesses”?**

Franchises with 500 or fewer employees are eligible for the PPP loans. Franchises that are assigned codes in the [SBA'S Franchise Directory](#) are considered their own entity – so, those businesses will not need to combine employee numbers across all franchise locations.

**5. How do you calculate employee count if you have multiple office locations?**

Under the CARES Act, businesses with multiple physical locations that fall under the category of a hotel, restaurant, or bar covered by [NAICS Code 72](#) (“Accommodations and Food Services”) which has 500 or fewer employees *per physical location* may qualify for the SBA 7(a) loan program. However, if a single location has more than 500 employees than you may not qualify. **We are awaiting clarification on the SBA on this point.**

## How do I apply for the SBA 7(a) Paycheck Protection Program?

**1. When can I apply for a PPP loan?**

Beginning April 3, small businesses and sole proprietorships can apply for SBA 7(a) PPP loans with an approved SBA lender. Independent contractors and self-employed individuals can apply beginning April 10. We encourage you to apply as quickly as you can.

By April 16, the original funding for PPP loans from the CARES Act had been exhausted, and SBA lenders stopped taking new applications. On April 24, the President signed into law an additional \$310 billion appropriated by Congress for



the program, and lenders were able to begin taking new applications/processing existing ones beginning Monday, April 27.

The PPP Flexibility Act, passed by Congress on June 3, extends the PPP program and application deadline through December 31, 2020.

## 2. Where do I apply for a PPP loan?

SBA 7(a) PPP Loans are disbursed by SBA-approved lenders. Due to the circumstances of the COVID-19 crisis, the Administration has given the Treasury and the SBA the ability to grant temporary “SBA-lender status” to lenders that do not currently participate in the program, in order to process and disburse more loans in a short period of time. The SBA does not itself issue the loans, but guarantees them to the lender. You can find an application for the PPP program [here](#). Be aware that some banks will require their OWN form, and not the PPP form.

## 3. Where can I find an SBA lender?

You can call your bank or find SBA-approved lenders in your area [here](#). In addition, you can reach out to a Small Business Development Center or a Women’s Business Center (**see #11 below**) and they will provide free assistance and guide you to lenders.

The CARES Act also gives the Treasury and the SBA the authority to grant temporary SBA lender status to lenders that do not currently participate in the program, so the list of lenders will likely grow.

## 4. What documents will be required to get an SBA loan?

Applicants for the SBA emergency loans will need to provide minimal documentation to show financial hardship – a “good faith certification” that it needs the loan to continue operations, that the loan will be used for eligible expenditures (payroll, rent, mortgage interest, or utility payments), and that it has not already received SBA loans for these purposes.

For the 7(a) PPP loans, the borrower will need to provide documentation to calculate their average monthly payroll for the year prior to receiving the loan. Each lender has a specific list of documents necessary to complete the loan application, so be sure to ask your lender what is needed. For example, some lenders may require:

- 2019 and 2020 year-to-date payroll reports
- State income, payroll, and unemployment insurance filings
- TAX ID/EIN and complete ownership information

- For sole proprietorships, independent contractors, and other self-employed individuals, your 2019 Form 1040 Schedule C and your Form 1099-MISC.
- For sole proprietorships, documentation of the income and expenses from the sole proprietorship. For healthcare costs, all health insurance premiums paid by the business owner under a group health plan
- Your company retirement plan funding paid for by the company

**5. I am an independent contractor with no employees. Does my own salary count as covered payroll for purposes of getting a 7(a) PPP loan for myself?**

Yes. Independent contractors and sole proprietors are able to apply for the 7(a) PPP loans. The CARES Act explicitly states that “compensation to or the income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation” is eligible. These individuals will need to provide documentation showing their average monthly income for the year prior, such as Form 1099-MISC or other supporting documentation, and their 2019 Form 1040 Schedule C when applying. The same rules apply for how the loans can be used.

**6. I have filled out an application for an SBA loan, but I can't find a lender who will accept it. Now what?**

These programs expanded rapidly under the CARES Act, and many lenders are limiting borrowers to existing business clients. NAR encourages REALTORS® to reach out to multiple lenders. We expect more financial institutions to begin lending under this program in the coming weeks. Keep trying and reaching out to lenders. A list of existing SBA lenders can be found [here](#). You can also reach out to your [local SBA office](#) for assistance.

**7. Does the program still have funding?**

As of June 4, the program still has over \$100 billion in funding remaining for PPP loans.

**8. Can I apply for more than one SBA 7(a) PPP loan?**

No; businesses are limited to one SBA 7(a) PPP loan. They will be assigned a taxpayer identification number (TIN) to ensure they do not receive multiple loans under the program.

**9. Can I receive both a 7(a) PPP loan and an EIDL loan?**

Yes, but there are some caveats. You can apply for both types of loans, but you must put them toward different expenses. In addition, if you receive an EIDL advance grant as well as an SBA 7(a) PPP loan, the amount of the advance will be subtracted from the amount forgiven under the 7(a) PPP loan.

**10. Where can I get individual counseling on SBA loans and programs for small businesses?**

The SBA has several options for in-person assistance to small businesses around the country. In addition to the SBA Regional and District Offices around the country, there is a network of Small Business Development Centers and Women's Business Centers, which provide counseling and training to small business owners, including assistance finding lenders and choosing the right loan products. [You can find information on the SBA's local assistance offerings here.](#)

**11. I am hearing that SBA Lenders are only working with existing business clients; is that true?**

In order to help the 7(a) PPP loans be distributed more efficiently, the CARES Act gives SBA lenders a fair amount of autonomy in administering the program. Due to the high volume of demand for these loans and some residual uncertainty as to the eligibility and documentation requirements for the SBA, many lenders are choosing to only work with existing business clients at this time. The CARES Act also gave the Administration the ability to give SBA lender status to lenders not currently participating in its programs, and is already accepting applications. Hopefully new lenders entering the arena will relieve the pressure on the existing lenders and help more businesses access the loan program.

We encourage members to reach out to multiple SBA lenders and to have your application and documentation of payroll expenses ready to submit.

**12. Where can I find more information about the 7(a) PPP loan program?**

[The Treasury Department's Paycheck Protection Program Information Sheet](#)

[SBA's Paycheck Protection Program Information Page](#)

[Treasury's Announcement on PPP Forgiveness, Application Forms, and Instructions](#) (Issued May 15)

[SBA and Treasury Department's FAQ on PPP](#) (Issued May 13)

[SBA's Interim Final Rule for Independent Contractor Requirements and Forgiveness](#) (Issued April 20)

[SBA's Interim Final Rule](#) (Issued April 15)





## What is an SBA Economic Injury Disaster Loan (EIDL) and EIDL Grant?

### 1. What is an SBA EIDL loan and grant?

[SBA Economic Injury Disaster Loans \(EIDLs\)](#) are low-interest loans for small business that experience an economic hardship as the result of a declared disaster

The EIDL grants are a new feature of the EIDL program. [SBA EIDL loans are available for small businesses during a declared disaster that have suffered economic harm.](#) The COVID-19 crisis has been declared an eligible disaster. The limit on these loans is \$150,000 (as of May 7). Under the CARES Act, applicants can receive up to a \$10,000 advance on their EIDL loan, which disburses ahead of the full amount and is eligible for forgiveness. EIDL loans can be used to provide paid sick leave to employees unable to work due to COVID-19, maintaining payroll, meeting increased costs due to supply chain disruptions, rent or mortgage payments, and repaying debt obligations.

Unlike other disaster loan programs, they do not require physical damage to a business.

On April 10 the SBA announced that in order to meet the high demand and provide funds to the greatest number of applicants, advance grants will depend on employee numbers: \$1,000 per employee, capped at \$10,000. After running out of funding, an additional \$60 billion was appropriated by Congress for the program in late April. On May 7 the SBA announced that due to funds running low again, the SBA is pausing taking new applicants (except from agriculture businesses) and the upper limit for EIDLs is now \$150,000. Applications already in the system will be reviewed on a first-come, first-served basis.

While NAR understands the SBA's goals in reducing the loan and grant amounts, we are concerned that this dramatic change in the implementation of the programs will reduce their usefulness for many small businesses and disproportionately impact independent contractors who do not have employees. NAR has expressed these concerns to Congress and urged them to provide additional funding to the SBA loan programs in future COVID-19 relief bills in order to ensure that the programs can provide adequate funding and assistance to businesses in need during the crisis.

### 2. How much can a business receive from an EIDL?

Under the SBA's new guidelines, eligible small businesses can receive up to \$15,000 in unsecured EIDLs, based on their working capital needs (secured loans may be for higher amounts). The CARES Act includes a provision allowing



small businesses to receive advances of up to \$10,000 (the EIDL grant) which will be disbursed ahead of the full EIDL amount; this grant amount is forgivable if used for an eligible purpose. The SBA's new guidelines clarify that borrowers can receive \$1,000 per employee in advance grant funds, capped at \$10,000. Unsecured EIDLs and the advance grants can be combined for a maximum total of \$25,000; the maximum loan amount for EIDLs (if secured) is \$150,000

### **3. Is any portion of an EIDL forgiven?**

Yes. The EIDL advance grants amounts are eligible for forgiveness if the borrower spends them on:

- Paid leave;
- Maintaining payroll;
- Mortgage or rent payments;
- Repaying debt obligations that the business is unable to meet due to revenue loss; and
- Increased costs due to supply chain disruption.

### **4. How do I apply to have my EIDL advance grant forgiven?**

The SBA has not released an application form or specific guidance regarding the EIDL advance grant forgiveness yet. Unlike PPP loans, EIDLs are not tied to an 8-week timeline, nor do they have requirements that a percentage of the funds go to any one use over another. Borrowers who receive an EIDL advance grant should keep clear records showing that they went toward one of the eligible uses (see #3 above) and be prepared to provide them to the SBA when they seek forgiveness.

This will be updated once the SBA releases its guidance or any specific forms for EIDL forgiveness.

### **5. What are the terms for the portion of an EIDL that is not eligible for forgiveness?**

EIDL terms are for 30 years, and interest rates are capped at 3.75% for small businesses (2.75% for non-profits). The first month's payments are deferred a full year from the date of the promissory note.

The CARES Act makes additional provisions to assist borrowers who are utilizing EIDLs due to the COVID-19 crisis:

- EIDLs can be approved by the SBA based on an applicant's credit score alone;
- Loans less than \$200,000 are not required to have a personal guarantee;
- They are not requiring real estate as collateral, and will accept a general security interest in business property.

**6. Some are claiming the EIDL grants are limited based on employee numbers - \$1,000/employee, up to \$10,000. Is this true?**

Yes. In a departure from the language in the CARES Act and previous guidance on the EIDL advance grant program, the SBA announced on April 10 that it was limiting advance grants to \$1,000 per employee, capped at \$10,000. In addition, the upper limit on EIDLs is now capped at \$150,000 (reduced from the earlier \$2 million cap). EIDLs are based on working capital needs, not employee numbers or payroll (unlike PPP), and NAR is concerned with the impact these changes will have on the program's usefulness, especially for independent contractors who do not have employees. NAR is advocating on the Hill for Congress to appropriate additional funds to both the EIDL and the PPP loan programs, to ensure that the SBA can meet the demand for these loans without reducing the efficacy of the overall program with arbitrary caps.

## Who is eligible for an EIDL Loan and EIDL Grant?

**1. Who is eligible for an EIDL?**

Under the CARES Act, an EIDL is available to any small business or business with 500 or fewer employees (or an industry size standard above 500 set by the Administration) that experiences an economic hardship as a result of COVID-19. This includes sole proprietors, independent contractors, tribal businesses, and cooperatives.

A business must make a good-faith certification that it is suffering an economic injury due to the COVID-19 crisis.

## How do I apply for an EIDL Loan and EIDL Grant?

**1. When can I apply for an EIDL?**

Funding for the EIDL program was exhausted on 4/16/20, and as of that date the SBA is no longer accepting new applications. NAR is advocating for Congress to quickly act to appropriate more funding for the program. If you applied for the program before the applications closed, the SBA is processing those applications on a first-come, first-served basis.

**2. Where do I apply for an EIDL?**

[The SBA has updated its EIDL application page to reflect the new streamlined process for COVID-19 relief, which you can find here.](#)

**3. How long will it take for loans to be disbursed?**

EIDL emergency advance grants are to be distributed within three days of application, although we have seen delays as this program is implemented. The other programs do not have deadlines for lenders to disburse loans. However,



the purpose of these new programs is to get funds to small businesses struggling to stay open and keep employees paid due to COVID-19, so the CARES Act has provisions to reduce burdens in the processes and increase efficiency. For example, SBA lenders are delegated the authority to make and approve most loans with minimal agency interaction. Documentation requirements will be minimal, and it is presumed that a business has been negatively impacted by COVID-19 if it was operating on February 15, 2020 and had employees or paid independent contractors.

In addition, Congress appropriated millions of dollars to the SBA specifically for purposes of administering the new loan programs and creating resources for borrowers.

#### **4. Can I receive both an EIDL and a 7(a) PPP loan?**

Yes, but there are some caveats. You can apply for both types of loans, but you must put them toward different expenses. In addition, if you receive an EIDL advance grant as well as an SBA 7(a) PPP loan, the amount of the advance will be subtracted from the amount forgiven under the 7(a) PPP loan.

