

Coronavirus SBA CARES Act FAQs

NAR's Federal Advocacy team 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 appropriates 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.

Provided below are a number of Q&As to address frequent questions about who is eligible and how to apply for these brand new programs created by the Administration. We continue to learn more about these relief measures daily and will update this document as events warrant.

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General Information

1. What relief can small businesses get through the SBA from the CARES Act?

The CARES Act creates two new programs/grants through the Small Business Administration: the SBA 7(a) "Paycheck Protection Program" (PPP) and the SBA Economic Injury Disaster Loan (EIDL) grant. The Act appropriates more than \$360 billion for the administration of these two programs and the loans/grants that they will provide.

The **PPP loans** are based on the average monthly payroll expenses of a business, multiplied by 2.5 and capped at \$10 million. They 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. If a business owner maintains a certain level of payroll expenses and employee numbers during that 8-week period, the loan is 100% forgiven; as employees go below those levels, the forgivable amount is phased out. **(More details on this loan can be found in Section II, below.)**

[Read the Treasury Department's overview of the SBA 7\(a\) PPP loan program here.](#)

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.

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 \$2 million. Under the CARES Act, applicants can receive a \$10,000 advance on their EIDL loans from lenders which will be disbursed within three business days of applying. That \$10,000 advance would be forgivable. 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. **(More details on this can be found in Section III, below.)**

For information direct from the drafters of the legislation, you can read [the Senate Small Business Committee's Guide to the CARES Act for Small Businesses here.](#)

2. What counts as a “small business”?

The CARES Act broadens the definition of “small business” to include any business that operates with 500 or fewer employees, or, a size standard set for the industry by the Administration. Sole proprietors, independent contractors and the self-employed also qualify. The SBA does not currently have an industry size standard for employee numbers for real estate brokerages, property managers, appraisers, or other activities related to real estate.

3. Who is eligible for a PPP loan?

In addition to 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.

4. 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.

5. What about businesses with multiple 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.**

6. What about franchises?

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. Franchises with 500 or fewer employees are eligible for the PPP loans.

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

EIDL emergency advance grants are to be distributed within three days of application, but 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.

8. Where do I get an SBA loan from?

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.

SBA EIDLs are administered directly by the SBA. [To apply for an SBA EIDL loan, visit the application page here](#) (see Section III, “SBA Economic Injury Disaster Loans and EIDL Grants” below for more information).

9. Where can I find an SBA lender?

You can call your bank or find SBA-approved lenders in your area through the [SBA online Lender Match Tool, which you can learn more about 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.

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

Applicants for the SBA emergency loans will only 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.

However, 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. [The Treasury Department has released the application form for SBA 7\(a\) PPP loans, which you can find here.](#)

11. 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.](#)

SBA 7(a) Paycheck Protection Program (PPP) loans

1. Who is eligible for a PPP loan?

In addition to 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. I am a sole-proprietor/independent contractor. Do I qualify for the SBA 7(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, Forms 1099-MISC, and income and expenses from the sole proprietorship. 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.

3. 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. The same rules apply for how the loans can be used and forgiveness requirements.

4. 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. This was a major question about the program after the CARES Act passed, as the legislation did not address this specific issue. The interim final rules explicitly state though that because independent contractors can apply for their own SBA 7(a) PPP loans, they do *not* count towards another business's payroll calculations.

5. Should a broker include their agents (independent contractors) in the request for an SBA 7(a) PPP loan? Or should agents apply for pandemic unemployment themselves?

From all indications, the intent of the CARES Act is that independent contractors be included in their "employer's" payroll to the extent they function as employees to a single entity, and that they apply for themselves to the extent they are a more standalone business. If that interpretation is correct, they documentation of their payroll will need to be supplied to the SBA lender, and the independent contractor cannot "double-dip" and request a loan for income already being counted by an employer.

This is an outstanding question, and we are awaiting clarity from the SBA on it. We hope to know more soon, but in the meantime encourage members – whether they employ independent contractors or are one themselves – to reach out to an SBA lender to find out what documents they should be preparing for an application.

6. How and when can I apply for an SBA 7(a) PPP loan?

Starting April 3, 2020, small businesses and sole proprietorships can apply for SBA 7(a) PPP loans. 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.

[The Treasury Department released the application form for the SBA 7\(a\) PPP loans on March 31, and you can access it here.](#)

7. How much money can a business get in a 7(a) PPP loan?

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).

8. 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;
- 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.

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.

9. How long of a period does the SBA 7(a) PPP loan cover?

An 8-week period during the covered period of February 15, 2020 – June 30, 2020.

10. Can my business 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.

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

Yes, up to 100% of the 7(a) PPP loans are forgivable.

In order to be eligible for loan forgiveness, borrowers must put the loan money toward an eligible use, maintain payroll expenses during the 8-week period the loan covers at a level of at least 75% of the average monthly level for the previous year, and keep the same number of employees on staff. As the amount of payroll expenses goes below 75% and/or as the number of employees is lowered, the forgivable amount of the loan is phased out. However – there is an exception: you will not be penalized for a reduction in employment or wages during the period from February 15, 2020 to April 26, 2020, if you rehire employees that you previously laid off or restore any decreases in wages or salaries by June 30, 2020.

[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).

12. 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.

13. 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 ten years to repay the loan, at an interest rate of not more than 4%. The remaining loan balance after forgiveness is 100% guaranteed by the SBA.

14. 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.

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

[The Treasury Department has released an information sheet for borrowers, which you can read here.](#)

[The SBA has an information page on the program, which you can find here.](#)

[Read the SBA interim final rule here.](#)

SBA Economic Injury Disaster Loans (EIDL) and EIDL Grants

1. What is an SBA EIDL?

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

2. 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.

3. How much can a business receive from an EIDL?

Eligible small businesses can receive up to \$2 million in EIDLs, based on their working capital needs. The CARES Act includes a provision allowing small businesses to receive advances of up to \$10,000 (the EIDL grant) within three business days of applying for an EIDL; this grant amount is forgivable if used for an eligible purpose (**see #5 below**).

4. Where do I go to 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.](#)

Unlike the SBA 7(a) PPP loans, the EIDL program already exists, and so you can apply for them right away.

5. Is any portion of an EIDL forgiven?

Yes. The \$10,000 EIDL advance grants are eligible for forgiveness if the borrower spends them on:

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

6. 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.

7. 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 a SBA 7(a) PPP loan, the amount of the advance will be subtracted from the amount forgiven under the 7(a) PPP loan.