CARES Act 101 for Fisheries, Aquaculture, and Seafood Businesses

National Sea Grant Law Center
Informational Webinar
April 8, 2020
Webinar Overview

• Introduction & Background
• Payroll Protection Program Overview
• Economic Injury Disaster Loans and Advances
• Hypotheticals
• Unemployment Provisions (if time)
• Questions and Answers
Who We Are

• One of 34 Sea Grant Programs
• Based at the University of Mississippi School of Law
• Established to provide non-advocacy legal research, outreach, and education services to Sea Grant network.
• COVID-19 outreach conducted in partnership with Mississippi-Alabama Sea Grant Legal Program

http://nsglc.olemiss.edu/covid19
General Recommendations

- Start compiling documentation – tax filings, income statements, expenses reports

- Reach out to their banker or lawyer, if they have one, or small business development center for assistance and guidance.

- Be persistent, but patient
Paycheck Protection Program (PPP) Loans

The CARES Act Quick Takes

- Covered Period - 2/15/2020-6/30/2020; Applications will be accepted starting April 3, 2020.
- Business must have been in operation on 2/15/2020, have less than 500 employees, and been affected by COVID-19. Includes small non-profits, sole proprietors, independent contractors, eligible self-employed individuals.
- Loan Purpose: retain workers and maintain payroll, and to make mortgage interest, rental, and utility payments.
- Loans are for 2 years with a 1% interest rate.
- Amount of loan = 2.5 x average monthly payroll costs.
  - Payroll costs include, among other items: salary, wage, commission, or similar compensation; payment for vacation, parental, family, medical, or sick leave; health insurance costs.
  - A business cannot include compensation for each employee above $100,000 annually.
- Loan Forgiveness - 8 weeks after the loan is given, a business can request for all or part of the loan to be forgiven.
  - Forgiveness will be reduced if full-time employees or salary and wages decrease during the 8-week period.
  - SBA has indicated only 25% of the forgiven amount can be for non-payroll costs.
- For more information: https://bit.ly/2R7Yn4H
- To contact your local SBA office: https://www.sba.gov/local-assistance
Starting April 10, independent contractors can apply for PPP loans.
• You must have been in operation on Feb. 15, 2020.
• Loans are meant to cover your payroll and to make mortgage interest, rental, and utility payments
• You will need to certify that you have been affected by COVID-19.

Loan amount is 2.5 x average monthly payroll costs
• For independent contractors, this includes wages, commission, income, net earnings from self-employment or other similar compensation.
• Amount is capped at $100,000 in one year, as pro-rated for the covered period.

Loan Forgiveness: 8 weeks after the loan is given, a business can request for all or part of the loan to be forgiven.
• Expenses that can be forgiven include payroll, mortgage interest, and rental and utility payments.
• SBA has indicated only 25% of the forgiven amount can be for non-payroll costs.
PAYCHECK PROTECTION PROGRAM DOCUMENTATION REQUIREMENTS

You need to be able to establish your eligibility. Applicable documentation could include (from SBA Interim Rule):

- Payroll processor records
- Payroll Tax Filings
- Form 1099-MISC
- Income and Expenses from a Sole Proprietorship

If you do not have this documents, you must provide other supporting documentation sufficient to demonstrate your payroll amount. This could include bank records.
PPP LOANS FORGIVENESS

100% if terms are met:

• 75% spent on payroll expenses
• Same number of employees as same time last year (can rehire if done by June 30)
• Salaries/Wages are not reduced more than 25% for any employee
PPP Hypothetical #1: Boat Owner with Employees

Boat owner’s annual pay = $30,000
Three employees paid with W2s for a total of = $45,000
Annual eligible payroll expenses: $75,000

Monthly payroll expenses: $6,250
Multiply by 2.5 - Eligible loan total: $15,625

May use money for mortgage interest, rent, utilities, interest on debts incurred before Feb. 15. No more than 25% may be used on these costs to get complete loan forgiveness.
PPP Hypothetical #2:
Boat Owner with Independent Contractors

Boat owner’s annual pay = $30,000
Three workers paid with 1099s = $45,000
Annual eligible payroll expenses = $30,000

Monthly payroll = $2,500 ($30,000 / 12)
Multiply by 2.5 - Eligible loan total = $6,250

May use for mortgage interest, rent, utilities, interest on debts incurred before Feb. 15. No more than 25% on these expenses to get full forgiveness.
PPP Hypothetical #3: Independent Contractor

Annual income: $30,000
Monthly income: $2,500
Multiply by 2.5 - Eligible loan total: $6,250
PPP Hypothetical #4: 
Boat Owner with W2 employees and an EIDL Loan

Outstanding Loan under EIDL program: $10,000

Annual payroll: $75,000  
Average monthly payroll: $6,250  
Multiply by 2.5 - Eligible loan total = $15,625

Add EIDL loan = $10,000  
Maximum loan amount is $25,625
ECONOMIC INJURY DISASTER LOANS AND ADVANCES
THE CARES ACT QUICK TAKES

• Small businesses, cooperatives, non-profits, sole proprietors and independent contractors in all 50 states, DC and territories are eligible.

• You can apply for a loan up to $2 million.
  • Interest rates: 3.75% for small businesses, 2.75% for others.

• You can also apply for a loan advance of $10,000, which does not need to be repaid.
  • You will receive the funds 3 days after your application.

• You must have been in business on Jan. 31, 2020.

• Your loan application will require tax forms, personal financial statements, profit-loss statements, sales figures and other financial info to show your business has suffered economic injury due to COVID-19.

• For more information: https://bit.ly/3bJ6Fb9
• To contact your local SBA office: https://www.sba.gov/local-assistance
ECONOMIC INJURY DISASTER LOANS

• You can apply for a loan advance of up to $10,000
  • The loan advance does not need to be repaid, even if you are ultimately denied an EIDL loan by the SBA.
  • You will receive the funds 3 days after your successful application.

• Allowable Uses:
  • Paying sick leave to employees who can’t work due to COVID-19
  • Maintaining payroll to retain employees
  • Meeting increased costs for materials due to supply chain disruptions
  • Making rent or mortgage payments
  • Repaying obligations that can’t be met due to revenue losses

• Will need to provide your bank name, account number, and routing number with your application.
Economic Injury Disaster Loans and Advances

Documentation Requirements

• You must have been in business on Jan. 31, 2020. CARES Act waives requirement that you need to have been in business for 1 year (Sec. 1110(c)(2)).

• Your loan application will require documentation showing your business has suffered economic injury due to COVID-19.

• BUT in order to establish your loss, SBA is requesting from the 12 months prior to Jan. 31, 2020:
  • Gross revenues, costs of goods sold, lost rent (for rental property owners), cost of operating expenses (for nonprofits), other reimbursements you will receive (like business interruption insurance), and your number of employees

• SBA has stated that there is no threshold for a percentage or dollar amount that you have lost—you just have to have suffered some economic injury.
EIDL Advance and the PPP

- You can apply for both an EIDL and PPP funding, including the loan advance.
  - You are NOT allowed to use the funds from both loans for the same purpose- you must apply them to different things.
  - If you received an EIDL (not used for payroll expenses) between Jan. 31, 2020-Apr. 3, 2020, it will be refinanced into your PPP loan.

- EIDL Advance will not be used to calculate your PPP loan amount.
  - The reasoning being that the EIDL Advance does not need to be repaid.

- BUT if you receive an EIDL advance, the amount of your advance will reduce the amount of your forgivable loan under the PPP (Sec. 1110 (e)(6)).
EIDL Advance and the PPP: Example

- You received an EIDL of $25,000 on Feb. 22, 2020 to make a mortgage payment.
  - Since this EIDL was made between Jan. 31, 2020- Apr. 3, 2020, it goes into the calculation of your PPP. You are eligible for the PPP because this loan was not used for payroll.

- You apply for and receive an EIDL Advance of $10,000 on April 16, 2020.
  - This does not go in to the calculation of your PPP.
  - But it does reduce your forgivable PPP amount.

- Your annual payroll is $120,000, and no employees make more than $100,000.
  - Average monthly payroll= $10,000
  - PPP loan amount = 2.5 x $10,000 = $25,000 + $25,000 Feb. 22 EIDL = $50,000
EIDL Advance and the PPP: Example, continued

- Your PPP amount = 2.5 x $10,000 = $25,000 + $25,000 Feb. 22 EIDL = $50,000. Your EIDL Advance is $10,000.

- PPP Loan Forgiveness – over the 8 weeks after your PPP loan you spend:
  - $20,000 on payroll
  - $2,000 on rental fees for your fishing dock space
  - $500 on utility payments
  - $200 on new fishing gear

- Total PPP forgivable amount:
  - $20,000 + $2,000 + $500 - $10,000 EIDL Advance = $12,500
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<thead>
<tr>
<th>Economic Injury Disaster Loan (EIDL)</th>
<th>Paycheck Protection Program</th>
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<tbody>
<tr>
<td><strong>Covered Loan Period</strong></td>
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<tr>
<td>March – December 20, 2020</td>
<td>Feb. 15 – June 30, 2020</td>
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<td><strong>Maximum Loan Amount</strong></td>
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<td>$2 million</td>
<td>$2.5 x average monthly payroll or $10 million</td>
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<td><strong>Maturity Date</strong></td>
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<td>Up to 30 years</td>
<td>Two years, with max 10 years</td>
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<td><strong>Application Intake</strong></td>
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<td>On line with SBA</td>
<td>Qualified SBA Lender</td>
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<td><strong>Interest Rate</strong></td>
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<td>3.75% (2.75% for nonprofits)</td>
<td>1%</td>
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<td><strong>Payment deferral</strong></td>
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<td>Up to 1 year</td>
<td>6 months – 1 year</td>
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<td><strong>Terms of Forgiveness</strong></td>
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<td>Up to $10,000 EIDL Advance is available - does not need to be repaid.</td>
<td>Keep workers employed, spend all funds within 8 week period after loan origination, spend 75% on payroll, other 25% only on allowable uses. * Amount of EIDL Advance will be deducted from forgiveness amount</td>
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<tr>
<td><strong>Allowable uses</strong></td>
<td></td>
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<td>Payroll, fixed debts, accounts payable</td>
<td>Payroll benefits, mortgage interest, utilities, other debt prior to March 15, 2020 (non payroll capped at 25% for forgiveness)</td>
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<td>*EIDL Advance can be used for Paying sick leave to employees who can’t work due to COVID-19, maintaining payroll to retain employees, meeting increased costs for materials due to supply chain disruptions, making rent or mortgage payments, repaying obligations that can’t be met due to revenue losses</td>
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PANDEMIC UNEMPLOYMENT ASSISTANCE
THE CARES ACT QUICK TAKES

• You can receive $600 a week above your State unemployment benefits.
• Available to full-time, part-time, and self-employed workers.
• Apply through your State’s unemployment office. Each state’s rules might be different.
• For more information: https://bit.ly/3dLG2UJ
Questions?

Please type your question into the Chat window.

Contact Us

sshowalt@olemiss.edu