

COVID-19 ALERT

Loan Opportunity Handbook for Small Businesses



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NEW JERSEY - NEW YORK - DELAWARE - MARYLAND - TEXAS - FLORIDA



Summary of Loan Opportunities for Small Businesses During the Coronavirus Pandemic

Over the last few weeks, state and federal governments and regulatory authorities have acted swiftly to enact a number of loan programs, grants and similar relief to small business. This summary is intended to provide an overview of a number of opportunities available to small businesses operating in New York and New Jersey. In addition to the "Paycheck Protection Program" under the CARES Act described herein, the CARES Act authorizes the Treasury Secretary to make certain loans, investments or guarantees in support of businesses in adversely affected industries (e.g., airline industry), as well as the creation of loan programs or facilities that provide financing to banks that make direct loans to mid-sized businesses with between 500 and 10,000 employees, and mentions the possibility of additional funding for small and medium-sized businesses under the "main street lending program," among other things. Additionally, the CARES Act increased the loan maximum under the SBA's "Express Loan" program from \$350,000 to \$1,000,000 through December 31, 2020. We are available to provide additional information regarding the programs described herein as well as with respect to other loan programs upon request, and we will provide additional information following the SBA's and Treasury Secretary's implementation of guidance, rules and regulations with respect thereto.

SBA Business Loan Program (the "Paycheck Protection Program") under Coronavirus, Aid, Relief, and Economic Security Act (the "CARES Act")

Qualifying Businesses: "Small business concerns" as defined under the SBA rules, along with other businesses and nonprofits with no more than 500 employees (including full and part-time employees) or, if applicable, the size standard in number of employees established by the SBA based on NAICS code, whichever is greater.

Additionally, for businesses in the restaurant and hospitality industry (i.e., any business assigned to a NAICS code beginning with 72) with more than one location, the 500 employee requirement applies per physical location.

Sole proprietorships, independent contractors, and certain eligible self-employed individuals.

The Act waives the SBA's affiliation rules with respect to eligibility during the period from February 15, 2020 through June 30, 2020 (the "Covered Period") for (i) accommodation and food service enterprises, (ii) any business concern operating under an SBA franchisor identifier code, and (iii) any business concern that receives financial assistance from a small business investment company licensed by the SBA under the Small Business Investment Act of 1958, as amended.¹

Purposes Loan May Be Used For: Loan proceeds may be used for (i) payroll costs², (ii) costs related to the continuation of group healthcare benefits during periods of paid sick, medical or family leave and insurance premiums, (iii) employee salaries, commissions or similar compensations, (iv) payments of interest on any mortgage obligation, (v) rent, (vi) utilities, and (vii) interest on any other debt obligations that were incurred prior to the Covered Period.³

Maximum Amount: The aggregate loan amount for each applicant will be equal to the lesser of

1. 2.5 times the average total monthly payments made by such applicant for payroll costs incurred during the 1-year period before the date on which the loan is made⁴ **plus** the outstanding amount of a loan made under the SBA's Disaster Loan Program ("EIDL") between January 31, 2020 and April 3, 2020, **less** the amount of any advance under an EIDL COVID-19 loan; or

¹ The Paycheck Protection Program Loan Frequently Asked Questions as of April 6, 2020 (the "FAQs") provide that, additionally, a business can qualify for the Paycheck Protection Program as a small business concern if it met both tests in the SBA's "alternative size standard" as of March 27, 2020.

² Payroll costs exclude individual employee cash compensation in excess of \$100,000 per year (on an annualized basis).

³ As provided in the Interim Final Rules released by the SBA on April 2, 2020 (the "Interim Rules") and the FAQs, independent contractors and sole proprietors do not count for purposes of a borrower's Paycheck Protection Program loan calculation, as independent contractors and sole proprietors have the ability to apply for such a loan on their own.

⁴ The FAQs provide that applicants may calculate their aggregate payroll costs using data either from the previous 12 months or calendar year 2019. There is a different measurement period for "seasonal" businesses, which can elect either the 12-week period beginning February 15, 2019, or the period of March 1, 2019 through June 30, 2019.

2. For businesses that were not in existence during the period from February 15, 2019 to June 30, 2019, 2.5 times the average total monthly payments made by such applicant for payroll costs from January 1, 2020 to February 29, 2020 plus the outstanding amount of a loan made under the SBA's Disaster Loan Program between January 31, 2020 and the date on which such loan may be refinanced under the Act; or
3. \$10,000,000.

Time Period Covered/Application Period: February 15, 2020 to June 30, 2020

Collateral: The obligations are not permitted to be secured by any collateral or personally guaranteed.

Interest Rate: 1%⁵

Repayment Term/Deferral/Loan Forgiveness: Covered SBA §7(a) loans made during the Covered Period are eligible for (i) repayment deferral for six months (interest will continue to accrue during this period), and (ii) forgiveness in an amount equal to the cost of maintaining payroll continuity⁶ for the 8 week period beginning on the date the loan was originated (i.e., payroll costs, interest payments on mortgage, rent and utilities), which amount shall not exceed the principal amount of the loan.

Forgiveness amounts are subject to reduction for (i) any reductions in workforce during the Covered Period measured against either (at the election of borrower): (A) the period from February 15, 2019 to June 30, 2019 or (B) January 1, 2020 until February 29, 2020⁷; and/or (ii) compensation reductions during the Covered Period in excess of 25% for employees making \$100,000 or less on an annualized basis. The Act offers relief from these forgiveness reduction penalties for employers that reduced employee headcount or cut salaries between February 15, 2020 and April 26, 2020 and rehire such employees or make up for such wage reductions, in each case, by June 30, 2020.

No Prepayment Penalties.

The maturity date for loans that have a remaining balance after application of forgiveness amount is 2 years.⁸

Where To Apply For Loan: Lenders authorized to make loans under the SBA's Business Loan Program, and certain additional private sector lenders under criteria to be established by the Treasury Secretary.

Information Necessary To Apply For Loan: SBA and Department of Treasury are to establish the more detailed terms and conditions of, and issue additional rules, regulations and/or guidance for, the new loan program promptly after enactment of the CARES Act.

See the following link for more details: <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

⁵ As provided in the Interim Rules, which supersedes the guidance in the CARES Act, which provided that the interest rate shall not exceed 4% and the Paycheck Protection Program Information Sheet circulated by the Treasury Department (the "PPP Information Sheet"), which provided that the interest rate will be 0.5%.

⁶ Based on the Interim Rules and the PPP Information Sheet, not more than 25% of the forgiven amount may be for non-payroll costs (i.e. interest on mortgage obligations, rent and utilities).

⁷ There is a different measurement for "seasonal" businesses, which just use the period beginning on February 15, 2019 and ending on June 30, 2019.

⁸ This is based on the Interim Rules and the PPP Information Sheet and supersedes the guidance in the CARES Act, which indicated that the maturity date would be a maximum of 10 years from the date the borrower applies for loan forgiveness.

Small Business Association (“SBA”) Economic Injury Disaster Loan Program⁹

Qualifying Businesses

- Small businesses, cooperatives, and ESOPs with no more than 500 employees
- Sole proprietorships, with or without employees, independent contractors
- Private non-profits
- Tribal small business concerns suffering substantial economic injury as a result of declared disasters - in this case COVID-19.

Purposes Loan May Be Used For: Loans may be used to help small businesses and non-profits meet financial obligations and operating expenses as a result of the impact of COVID-19, such as fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact.

Maximum Amount: \$2,000,000. The loan amount will be based on the applicant's actual economic injury and financial needs. Applicants may request an emergency advance of up to \$10,000 within three days after the SBA receives the application, subject to verification of eligibility.

Time Period Covered/Application Period: January 31, 2020 - December 31, 2020

Collateral: Loans over \$25,000 require collateral. The SBA will accept real estate (commercial and residential) as collateral when it is available and, while it will not decline a loan for lack of collateral, it will require borrowers to pledge what is available. Loans over \$200,000 require guarantees by owners of 20% or more borrower.

Interest Rate: 3.75% (small businesses) and 2.75% (non-profits)¹⁰

Repayment Term/Deferral/Loan Forgiveness: Case-by-case basis. A loan may have a repayment term of up to 30 years.

Where To Apply For Loan: <https://www.sba.gov/disaster-assistance/coronavirus-covid-19>

Information Necessary To Apply For Loan

- Business Loan Application (SBA Form 5).
- IRS Form 4506-T for the applicant, each principal owning 20% or more of the applicant, each general partner or managing member and for any owner who has more than a 50% ownership in an affiliate business.
- Complete copies, including schedules, of the most recent Federal income tax returns of the applicant.
- Personal financial statements (SBA Form 413) by the applicant (if a sole proprietorship), each principal owning 20% or more of the applicant and each general partner or managing member.
- Schedule of Liabilities listing all fixed debts (SBA Form 2202)

Additional Information Possibly Needed

- Complete copies, including schedules, of the most recent Federal income tax returns of each principal owning 20% or more of the applicant, each general partner or managing member and for any owner who has more than a 50% ownership in an affiliate business.
- If the most recent tax returns have not yet been filed, a year-end profit and loss statement and balance sheet for the applicable tax year.
- A current year-to-date profit and loss statement.
- Additional Filing Requirement (SBA Form 1368) providing monthly sales figures.

⁹ Certain aspects of the SBA's Disaster Loan Program have been expanded under the CARES Act, including the types of businesses eligible for such loans and the purposes for which loan advances may be used, and certain loan requirements have been relaxed or waived.

¹⁰ These interest rates apply to COVID-19 specific SBA economic injury disaster loans. Interest rates may vary for other types of SBA disaster loan programs.

New York City Small Business Assistance through the NYC Small Business Continuity Loan Program (the “NYC Loan Program”)

Qualifying Businesses: Businesses that -

1. Are located within the five boroughs of NYC
2. Demonstrate that the Covid-19 outbreak caused at least a 25% decrease in revenue¹¹
3. Employ less than 100 employees in total across all locations
4. Have been in operation for at least 2 years
5. Demonstrate the ability to repay the loan
6. Have no outstanding tax liens or legal judgments

Purposes Loan May Be Used For: Loans may be used to help small businesses address the negative economic impact of COVID-19.

Maximum Amount: \$75,000

Time Period Covered/Application Period: N/A

Collateral: N/A

Interest Rate: 0%

Repayment Term/Deferral/Loan Forgiveness: Case-by-case basis.

Where To Apply For Loan: <https://www1.nyc.gov/nycbusiness/article/nyc-small-business-continuity-loan-program>

Information Necessary To Apply For Loan:

To verify the loss of revenue, you will need to upload:

- Financial documents for two months in 2020 demonstrating revenue decrease due to COVID-19
- Financial documents showing your revenue for the same two months in 2019 (unless you were not in business at that time)
- Financial documents showing your revenue for the full 2019 calendar year

Financial documents can include: point-of-sales reports, bank statements, quarterly sales tax filings, tax returns, or profit & loss statements.

To confirm your eligibility, you will also need to upload: A signed Participation Affidavit verifying that you are eligible for the program

Additional Information Possibly Needed: N/A

¹¹ To calculate the revenue impact of COVID-19, NYC will compare average revenue for two months in 2020 (after the COVID-19 impact) to both: (i) average revenue for the same two month period in 2019, and (ii) average monthly revenue based on total 2019 revenue to see if either calculation shows at least a 25% decrease in revenue.

New York City Small Business Assistance through the NYC Employee Retention Grant Program (the “NYC Grant Program”)

Qualifying Business: Business, including non-profits, that:

1. Are located within the five boroughs of NYC
2. Demonstrate that the Covid-19 outbreak caused at least a 25% decrease in revenue¹²
3. Employ 1-4 employees in total across all locations
4. Have been in operation for at least 6 months
5. Have no outstanding tax liens or legal judgments

Purposes Loan May Be Used For: The grant may be used to cover payroll costs in order to help retain employees as businesses face decreased revenue from COVID-19.

Maximum Amount: Up to 40% of payroll costs for 2 months

Time Period Covered/ Application Period: 2 months

Collateral: N/A

Interest Rate: N/A

Repayment Term/Deferral/Loan Forgiveness: No need for repayment of grant.

Where To Apply For Loan: <https://www1.nyc.gov/nycbusiness/article/nyc-employee-retention-grant-program>

Information Necessary To Apply For Loan: To verify the loss of revenue, you will need to upload the same documentation required for this under the NYC Loan Program.

To determine your grant amount, you will need to upload:

- Your most recent two months of payroll records

To process your grant, you will need to upload:

- A signed Participation Affidavit verifying that you are eligible for the program and that you are applying in order to retain your employees
- Your bank account information

Additional Information Possibly Needed: N/A

¹² Same as footnote ¹¹ above.

Grants available to small businesses via the New Jersey Economic Development Authority (“NJEDA”)

Qualifying Business: Small and medium sized business and non-profits (collectively “SMEs”) that are NJ-based and have between 1-10 full time equivalent employees (“FTE”).

Purposes Loan May Be Used For: The grant funding is targeted as unrestricted payroll and working capital support, and cannot be used for any capital expenses, including construction.

Maximum Amount: Grant values are calculated at \$1,000 per FTEs reported on business’ WR-30 filed with the New Jersey Department of Labor and Workforce Development.

- Minimum grant amount (per application): \$1,000
- Maximum grant amount (per application): \$5,000

Time Period Covered/Application Period: Anticipated to commence the week of March 30th.

Collateral: N/A

Interest Rate: N/A

Repayment Term/Deferral/Loan Forgiveness: No need for repayment of grant.

Where To Apply For Loan: Link will likely be released the week of March 30, 2020. In the meantime to see whether you might qualify for this program you can use the [NJ COVID-19 Business Support Eligibility Wizard](#)

Information Necessary To Apply For Loan

1. Have between 1 and 10 FTEs.
2. Have a physical commercial location in the State of New Jersey. Home-based businesses are not eligible for this round of grant funding.
3. Are classified in one of the following industries: Retail (NAICS codes starting with 44... or 45...); Accommodation & food services (NAICS codes starting with 72...); Arts, entertainment & recreation (NAICS codes starting with 71...); Other services (only those with NAICS codes starting with 811... and 812).
4. Are registered to do business in the State of New Jersey.
5. Must certify that the company is in good tax standing with the State
6. Are in good standing with the Department of Labor and Workforce Development, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor and Workforce Development.
7. The CEO of the business must certify that the business:
 - a. Will make a best effort not to furlough or lay off any individuals from the time of application through six months after the end of the declared state of emergency. SMEs that have already furloughed or laid off workers must make a best-effort pledge to re-hire those workers as soon as possible. Any material breach of its best efforts certification may result in the NJEDA seeking repayment of the grant.
 - b. Has been negatively impacted by the COVID-19 declared state of emergency in Executive Order 103 (e.g., has been temporarily shut down, has been required to reduce hours, has had at least a 20% drop in revenue, has been materially impacted by employees who cannot work due to the outbreak, or has a supply chain that has materially been disrupted and therefore slowed firm-level production).

- c. Has a material financial need that cannot be overcome without the grant of emergency relief funds at this time (e.g., does not have significant cash reserves that can support the SME during this period of economic disruption).

Additional Information Possibly Needed: Non-profit organizations are eligible for this program. Eligible non-profits must have status of 501(c)(3), 501(c)(4), 501(c)(7)

Loans available to small businesses via the NJEDA

Qualifying Business: New Jersey based small businesses and non-profit organizations that have been in existence for at least one-year and has less than \$5 million in annual revenue.

These businesses must have been negatively impacted by the COVID-19 outbreak (including, but not limited to: reduction of business hours, complete closure of business, at least a 20% decline in revenue, employees unable to work, required to close by government, or disruption of supply chain).

Purposes Loan May Be Used For: Loans may be used to help small businesses address the economic challenges due to COVID-19.

Maximum Amount: \$100,000

Time Period Covered/Application Period: Anticipated to commence the week of March 30th.

Collateral: N/A

Interest Rate: 0% (years 1-5) Interest is reset to the NJEDA's prevailing interest rate floor (capped at 3%) for years 6-10.

Repayment Term/Deferral/Loan Forgiveness: 10 year term and amortization. Deferred repayments for 12 months

Where To Apply For Loan: Link will likely be released the week of March 30, 2020. In the meantime to see whether you might qualify for this program you can use the [NJ COVID-19 Business Support Eligibility Wizard](#)

Information Necessary To Apply For Loan:

- Have a physical commercial location in the State of NJ. Home-based businesses are not eligible for this program
- Have been in existence for at least one year
- Have less than \$5M annual revenue
- Can show a global debt service coverage ratio of 1.00 (as of December 31st, 2019)
- Are able to demonstrate negative impact related to COVID-19 on or after March 9th, 2020
- Are registered to do business in the State of NJ
- Must certify that the company is in good tax standing with the State
- Are in good standing with the Department of Labor and Workforce Development, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor and Workforce Development
- Are able to provide a CEO certification that the firm will make its best-effort to not lay off employees or will re-hire employees as soon as possible

Additional Information Possibly Needed: Non-profit organizations are eligible for this program; eligible non-profits must have status of 501(c)(3), 501(c)(4), 501(c)(7)

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Resource Center

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