<u>Essential Facts for Small Business Owners About the Paycheck Protection Program</u>

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act or CARES Act.

To help small businesses avoid employee layoffs, and pay other ongoing expenses in the face of revenue losses, **the CARES Act establishes a new loan program called the "Paycheck Protection Program"** administered by the Small Business Administration (SBA). Patterned after the existing SBA 7(a) guaranteed loan program and funded with over $350 billion, banks and other eligible lenders can make loans to small businesses to pay interest, rent, utilities and employee wages and benefits.

If a small business keeps the same number of employees from February 15, 2020 to April 26, 2020 (or re-hires by June 30, 2020 any employees fired or laid-off), the loan will be forgiven and will not require repayment, essentially making it a grant.

Important questions small business owners may have about the Paycheck Protection Program and other SBA programs affected by the CARES Act are answered below.

Q: Who is eligible for a Paycheck Protection Program loan?

A: Paycheck Protection Program loans can be made to small businesses (500 employees or fewer, and in some cases up to 1,500 employees) and, new in the CARES Act, to sole proprietors, independent contractors and eligible self-employed individuals, as well as 501(c)(3) nonprofits, veterans' organizations, and tribal small business concerns. In addition, the CARES Act also waives existing SBA affiliation rules to allow loans to businesses with 500 or fewer employees in a location in the hospitality and restaurant industries (even if part of a related ownership group with other locations), franchises that are approved on the SBA's Franchise Directory, and small businesses who receive financing through the Small Business Investment Company program.

To be eligible, the business must have been operating on February 15, 2020. The eligibility requirements for a self-employed individual were established in the Families First Coronavirus Response Act.

Q: Where can a small business get a Paycheck Protection Program loan?

A: In addition to banks and other lenders currently authorized to make SBA guaranteed loans, the CARES Act temporarily allows Paycheck Protection Program loans be offered to eligible borrowers by other banks and insured depository institutions, insured credit unions, Farm Credit System chartered associations, and other lenders not already participating in SBA programs.

Q: What are permitted uses for the loan proceeds?

A: Funds from a Paycheck Protection Program loan may be used for payroll costs; health benefits payments; employee salaries, commissions or similar compensation; rent or lease payments; utilities; interest on existing mortgage obligations and interest on other loan obligations in existence prior to February 15, 2020.

In addition, loan proceeds may be used to refinance an Economic Injury Disaster Loan issued by SBA to the borrower on or after January 31, 2020.

Q: What's the maximum loan amount?

A: The maximum loan amount for the small business or another eligible borrower receiving a Paycheck Protection Program loan is 2.5 multiplied by the average total monthly payments by the applicant for payroll costs during the 12 months before the date the loan is made, but not more than $10 million. Special rules apply to seasonal businesses, or businesses started within the last year (but a new business must have been operating on February 15, 2020.) For the maximum loan calculation, "payroll costs" include total payments made in the form of salary, wage, other compensation, cash tips, vacation, medical and sick leave, payments to continue group health benefits, and amounts paid on state and local payroll taxes on such compensation.

However, for any employee salary, or compensation to an independent contractor or sole proprietor, greater than $100,000 annually, the portion of the wages or compensation greater than $100,000 on annualized basis is not included. In addition, if the borrower was issued an Economic Injury Disaster Loan (EID Loan) by SBA on or after January 31, 2020, the maximum loan amount calculated as described above is increased by the outstanding balance of the EID Loan.

Q: How many loans can I take out under this program?

A: Only one. This means that if you apply for a Paycheck Protection Program loan, you should consider applying for the maximum amount.

Q: What are the loan forgiveness terms?

A: The principle objective of the Paycheck Protection Program is to allow small businesses and other eligible borrowers to continue to pay employees. To encourage that, the principal amount of the loan will be "forgiven" (i.e., not required to be paid back) if the small business or other borrower maintains the number of employees and the amount paid to employees between February 15, 2020, and April 26, 2020 (see below if employees have been laid off or reduced in pay).

The amount of the loan principal that will be forgiven will be equal to the total amounts during the 8-week period starting when the loan is made (covered period) of payroll costs actually paid, payments of covered rent obligations; covered utility payments; interest paid on covered mortgage obligations; and interest paid on any other debt obligations incurred prior to February 15, 2020, up to the total amount of loan principal.

In addition, at least 75% of the forgiven loan amount must be used for payroll costs and not more than 25% may be used for other allowed expenses, such as rent, utilities and interest. The borrower must document the use of the proceeds for payroll costs for loan forgiveness. The portion of any loan not forgiven will have a two-year term and 1% interest rate. Forgiven loan amounts will not be included as gross income for the business.

Q: What if the business laid off employees or reduced employee wages?

A: If the borrower reduced the number of full-time employees between February 15, 2020, and April 26, 2020 and has not rehired the employees on or before June 30, 2020, then the amount of the loan forgiven will be reduced by taking the sum of the above items and multiplying it by the average number of full-time equivalents (FTEs) per month – calculated by the average number of FTEs for each pay period falling within a month during the covered period divided by either: (a) average FTEs/month during Feb 2019 to June 2019; or (b) the average FTEs/month during Jan. 1, 2020 to Feb. 29, 2020.

If the borrower reduced the wages of one or more employees February 15, 2020, and April 26, 2020 and has not restored the wages on or before June 30, 2020, then the amount of the loan forgiven will be reduced by the amount of any reduction in total salary or wages of any employee during the covered period that is in excess of 25% of the employee's salary or wages during the employee's most recent full quarter of employment before the covered period.

To encourage businesses to rehire workers who were laid off during the COVID-19 outbreak, businesses can increase the amount of loan forgiven if they rehire previously laid-off employees or make up for wage reductions by June 30, 2020.

Q: What is the loan interest rate and other loan terms?

A: Other important terms of the loan include:

- Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with an interest rate of 1% and a two-year loan maturity from the date the borrower applies for the loan.
- Interest and principal payments are deferred for six months, but interest will continue to accrue during the deferral period.
- No personal guaranties or collateral will be required, and loans are made on a nonrecourse basis. This means the lender cannot seek collection from any individual shareholder, member or partner of the business unless the borrower uses the loan proceeds for something other than an authorized use.
- SBA's standard "no credit elsewhere" test is waived.
- No prepayment penalty fees.

Q: Does the business have to show it was damaged by COVID-19?

A: To be eligible, the borrower must make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by COVID-19; the borrower will use the funds to retain workers and maintain payroll, lease, and utility payments; and the business is not receiving duplicative funds for the same uses from another SBA program.

In addition, the SBA will allow lenders to rely on certifications of the borrower in order to determine eligibility of the borrower and use of loan proceeds and to rely on specified documents provided by the borrower to determine qualifying loan amount and eligibility for loan forgiveness.

Q: What if the small business already has another SBA Loan?

A: If an eligible borrower was issued an Economic Injury Disaster Loan (EID Loan) by SBA on or after January 31, 2020, the Paycheck Protection Program loan can be used to refinance the EID Loan.

(See below about payment deferments on other existing SBA loans.)

Q: Where to go/How to apply for a Paycheck Protection Program Loan?

A: Many banks and lenders currently work with SBA guaranteed loans, and many more banks and lenders, as well as credit unions and Farm Credit System lenders will offer Paycheck Protection Loans, so a small business should first contact its current financial institution to determine if it currently participates in SBA programs or will participate in the Paycheck Protection Program.

Q: What if the business needs money quickly?

A: Advances of up to $10,000 are available from SBA as an Emergency Grant to eligible entities to be used for providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met because of revenue loss due to COVID-19. SBA must distribute advances within three days of application to eligible entities that have applied for an EID Loan (and such advance is not required to be repaid if the applicant is subsequently denied for an EID Loan). The EID Loan can be refinanced as part of a Paycheck Protection Program loan.

Q: How long will this program last?

A: Although the program is open until June 30, 2020, we encourage you to apply as quickly as you can because there is a funding cap and lenders need time to process your loan.

Additional information and applications can be found at the U.S. Small Business Administration's Coronavirus Relief Options Paycheck Protection Program webpage and the U.S. Treasury Department's CARES Act webpage for Small Business Assistance.

<u>Other changes to SBA Loan Programs made by CARES ACT Economic Injury Disaster Loans</u>

The CARES Act also made changes to the SBA Economic Injury Disaster (EID) Loan:

- In addition to small businesses previously eligible, from January 31, 2020, to December 31, 2020, the CARES Act expands entities eligible for EID Loans to include tribal businesses, cooperatives, and ESOPs with fewer than 500 employees; and any individual operating as a sole proprietor or an independent contractor; as well as small business concerns, private nonprofit organizations, and small agricultural cooperatives.
- Authorizes EID Loans made in response to COVID-19 to be given based on the applicant's credit score only, or a similar alternative method, and waives requirements for a personal guarantee on advances and loans up to $200,000. Requirements that an applicant was in business for one year (if in operation on January 31, 2020) and that the borrower was unable to obtain credit elsewhere are also waived.
- Establishes an Emergency Grant to allow an eligible entity who has applied for an EID Loan due to COVID-19 to request an advance on that loan, of not more than $10,000, which may be used for providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses. SBA must distribute the advance within three days of application, and the advance is not required to be repaid if the applicant is subsequently denied for an EID Loan.

SBA Express Bridge Loans The Express Bridge (EB) Loan Pilot Program allows small businesses who currently have a business relationship with an SBA Express Lender to access up to $25,000 with less paperwork., as follows:

- EB Loans can be a term loan or a bridge loan while applying for a direct SBA Economic Injury Disaster (EID) Loan if a small business has an urgent need for cash while waiting for decision and disbursement of the EID Loan.
- EB Loans may be up to $25,000.
- EB Loans will be repaid in full or in part by proceeds from the EID Loan Payment deferments on existing SBA Loans
- The CARES Act also authorizes SBA to pay principal, interest, and any associated fees owed for a six-month period on any existing loan guaranteed by SBA under Section 7(a) or the Small Business Investment Act (but not including a Paycheck Protection Program loan).

Deferments start on the next payment date or, for deferred existing loans, on the next payment after deferment ends, or on any such loan issued between March 27, 2020, and September 27, 2020, for a six-month period starting with the first payment date. (If an eligible borrower was issued and Economic Injury Disaster Loan (EID Loan) by SBA on or after January 31, 2020, the Paycheck Protection Program loan can be used to refinance the EID Loan.

Additional Information Additional information and applications can be found at the U.S. Small Business Administration's Coronavirus Relief Options Paycheck Protection Program webpage and the U.S. Treasury Department's CARES Act webpage for Small Business Assistance.