CHILD CARE SERVICES ASSOCIATION

January 2021 Update CARES Act Forgivable Loans extended and expanded for small businesses

The federal FY2021 Consolidated Appropriations & COVID Relief Act (P.L. 116-260) was enacted December 27, 2020. Under the new law, small business relief and unemployment compensation enacted originally in March 2020 as part of the CARES Act was extended. Several loan programs are available for small businesses that can offer some assistance to child care providers (family child care homes and child care centers). These programs are operated by the U.S. Small Business Administration (SBA).

KEY INFORMATION

The Paycheck Protection Program

Under the new law, the Paycheck Protection Program (PPP) is re-opened through March 31, 2021, with two types of “forgivable” loans.

- First Time PPP Loans: Small businesses that did not receive a PPP “forgivable” loan may apply through March 31, 2021.
- PPP Second Draw Loans: Small businesses that have already received a PPP loan, but continue to struggle, are allowed to apply for a Second Draw Loan if they have fewer than 300 employees and also had a 25% reduction in gross receipts in the 1st, 2nd or 3rd quarter of 2020 relative to 2019 (businesses applying after January 1, 2021, can use gross receipts from the 4th quarter of 2020.) Second Draw Loans are also available through March 31, 2021.

Funds are available on a first-come, first-serve basis. While many small businesses may be eligible (including child care centers and family child care homes), not all applicants may receive funding (depending on both the number of applications received and the loan amount requested).

Continued on page 2...

KEY INFORMATION

...Continued from page 1

The Emergency Economic Injury Disaster Loan (EIDL) Program (for loans plus emergency cash advances)

- Emergency EIDL Advance grants (up to $10,000) are extended under the new law through December 31, 2021.
- Small businesses that received an EIDL Advance grant under the CARES Act that are located in low-income communities are eligible to receive the difference between the amount they received under the CARES Act and $10,000 (i.e., the SBA issued many EIDL grants below $10,000 in order to support more small businesses and the new law seeks to ensure that the full $10,000 advance is available).

Both Programs (PPP & EIDL)

- If a business uses both programs, the business cannot charge the same expenses for the same time period to both programs.
- Employers must keep good records to verify that staff and wages were maintained and to document payroll and other expenses (e.g., utilities, mortgage interest or rent as well as some broader new allowable expenses under federal legislation enacted in December) in case there is an audit.

PROGRAM ELIGIBILITY - PPP & EIDL

- 501(c)(3) non-profit organizations with fewer than 500 employees.
- Small businesses with fewer than 500 employees for initial PPP loans. (Second Draw Loans are limited to businesses with fewer than 300 employees and require demonstration of a 25% reduction in gross receipts in any quarter in 2020 compared to 2019).
- Self-employed individuals (with submission of certain documentation).
- Sole proprietors.
- Independent contractors.
- Tribal business concerns that meet the SBA size standard.
- Churches (including temples, mosques, synagogues and other houses of worship), integrated auxiliaries of churches and conventions or associations of churches qualify for PPP and EIDL loans as long as they meet the requirements of Section 501(c)(3) of the Internal Revenue Code, and all other PPP and EIDL requirements. The new law clarifies SBA guidance that no restrictions apply, see this SBA FAQ for additional guidance.

  

PAYCHECK PROTECTION PROGRAM (PPP) SPECIFICS

The Paycheck Protection Program (PPP) is designed to cover eight weeks of payroll-related expenses to support small businesses so they can keep employees working rather than laying them off. It is a loan that can be converted to a grant (referred to as a “forgivable” loan). Businesses apply for PPP at participating banks and credit unions or through other lenders such as Community Development Financial Institutions (CDFIs). Under the new law, borrowers can select their own covered period between eight weeks and 24 weeks after loan origination.

AMOUNT THAT CAN BE BORROWED AND FOR WHAT EXPENSES

- Eligible programs can borrow up to 2.5 times their average monthly payroll expense. The amount is intended to help cover;
- Eight weeks of payroll, for hourly and salaried employees, under the maximum $100,000 threshold;
- Employee group health care benefits, including insurance premiums, retirement contributions and paid sick or medical leave;
- The new law expands the definition of payroll costs to include other employer group plans such as group life, disability, vision and dental insurance.
- Up to 40% of the PPP can be used for non-payroll related expenses such as mortgage interest, rent or utilities and other fixed costs as stated below.
- The new law broadens the types of expenses that are also eligible for non-payroll expenses (also sometimes referred to as “fixed costs”). These new eligible expenses include:
    - Covered Operations Expenditures: Costs related to business software that supports business operations, billing, accounting or record-keeping.
    - Covered Supplier Costs: Expenses pursuant to a contract, order or purchase order with respect to perishable goods and other items (e.g., food costs for children in child care programs).
    - Covered Worker Protections: Expenses that support business activities to comply with COVID requirements established by the U.S. Department of Health and Human Services, Centers for Disease Control, Occupational Safety and Health Administration or any similar requirements or guidance by state, county or local governments during the pandemic. For example, PPE and cleaning supplies, and other expenses related to child care compliance with social distancing and public health requirements.
- Small businesses must have been in operation on February 15, 2020. Applications for PPP must be received by March 31, 2021.

Continued on page 4...



PAYCHECK PROTECTION PROGRAM (PPP) SPECIFICS

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REPAYMENT OF A PPP LOAN

Employers that meet all the requirements of the PPP loan will have the loan turned into a grant and the loan will be forgiven. However, if some of the funds are spent on other business-related expenses that are not eligible under PPP, that portion will remain as a loan and must be paid back. Any amount to be paid back will become a 5-year loan at a 1% interest rate.

Under the new law, forgiveness is simplified for loans of less than $150,000. Borrowers can receive forgiveness through a one-page certification that includes a description of the number of employees that the borrower was able to retain due to the loan, the estimated total amount of the loan spent on payroll costs, and the total loan amount. The SBA is instructed to create this new form within 24 days of enactment and must not require additional substantiation (records). Banks can still require more information but are not required to do so. Borrowers are encouraged to retain records and any loan could be subject to an audit (where records would be required).

HOW LAYOFFS ARE FACTORED INTO THE PPP

- If after receiving a PPP loan, an employer lays off employees, then a portion of the funds (based on a formula related to the number laid off) could be identified as a loan and repayment may be required to be repaid over 5 years depending upon the circumstances.
- The Paycheck Protection Flexibility Act enacted in June of 2020 provided additional flexibility on “the head count” required under PPP loans. Under that law, employers can reduce workforce retention requirements based on the inability to find qualified employees or employers can reduce workforce retention requirements if they are unable to restore operations to February 15, 2020, levels.

WHAT IS NEEDED (AND NOT NEEDED) TO APPLY FOR A PPP LOAN

- The completed application: Payroll Protection Program application;
- 2019 IRS forms (tax return or 990) or 2018 forms, plus year-end income, expense, and asset statements;
- An applicant does not need to pledge any collateral and does not need to personally guarantee the loan;
- There are no fees to apply for a PPP loan; and
- Providers apply at participating banks and credit unions.



EMERGENCY ECONOMIC INJURY DISASTER LOANS (EIDL) SPECIFICS

Eligibility is the same for both programs. See page 2.

The Emergency Economic Injury Disaster Loan (EIDL) serves as a loan program to provide working capital to small business during or after a disaster until normal operations can continue. Loans can be made up to $2 million. The CARES Act emergency advance of up to $10,000 to meet urgent business obligations is extended through December 31, 2021. A program can apply for a second EIDL unless the business received less than the $10,000 from the first application. In that case, the application would fill the gap (as stated below).

- Under the new law, EIDL Advance grants must be approved and dispersed within 21 days.
- The $10,000 cash advance does not need to be repaid if a larger EIDL is not approved or if a borrower doesn't pursue a longer-term loan.
- Under the new law, applicants for an EIDL Advance grant who are located within a low-income community who received less than $10,000 in a prior EIDL Advance grant payment are eligible to receive the difference (the amount of their prior EIDL Advance grant and $10,000).

ELIGIBLE EXPENSES - EIDL

- Paid sick leave for employees unable to work due to the direct effect of COVID-19;
- Payroll costs in order to retain employees during business disruptions or substantial slowdowns;
- Increased costs related to purchasing materials that are unavailable from the applicant's original source because of shortages in the supply chain;
- Rent or mortgage payments; and
- Repayment of obligations that cannot be met due to losses in revenue.
- Borrowers cannot claim both EIDL and PPP expenses for the same expenses (e.g., there is no double-dipping).

REPAYMENT OF THE LOAN

An applicant is not required to repay any amounts of the emergency advance under EIDL if they are denied a larger loan (that they applied for when completing the EIDL application). The loan has a 3.7% interest rate and payments can be deferred for a year.

HOW TO APPLY FOR AN EIDL

- Providers apply directly to the SBA for EIDL loans with this application;
- The amount of the loan can be up to $2 million with an emergency advance of up to $10,000; and
- Applicants must self-certify their eligibility. Certain rules related to personal guarantees, length of operation, and inability to get credit elsewhere are waived.

FOR MORE INFORMATION

- SBA Paycheck Protection Program application
- SBA Economic Injury Disaster Loan (EIDL) application
- Contact the Small Business Development Centers located in North Carolina
- Contact the Women's Business Centers in North Carolina

SOURCES

The FY2021 Consolidated Appropriations and COVID-19 Emergency Relief Act (December 27, 2021, P.L. 116-260).

The Coronavirus Aid, Relief, and Economic Security (The CARES) Act (March 27, 2020, P.L. 116-136).

Bipartisan Policy Center. U.S. Small Business Administration Support, the Coronavirus Aid, Relief, and Economic Security Act, March 26, 2020.

Committee for Economic Development. Federal Paycheck Protection Program (PPP) Re-Opened; Unemployment Compensation Update, January 5, 2021.

THANK YOU TO OUR CHILD CARE WORKFORCE FOR YOUR INCREDIBLE DEDICATION AND PASSION DURING THE TIME OF COVID-19. WE WISH YOU ALL SAFETY AND GOOD HEALTH.

CHILD CARE SERVICES ASSOCIATION