



## Paycheck Protection Program and Economic Injury Disaster Loan Fraud

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, through the U.S. Small Business Administration (SBA), provided two sources of funding for small businesses affected by the economic downturn associated with the Novel Coronavirus pandemic:

*Paycheck Protection Program (PPP) - designed for payroll costs and benefits mortgage interest and rent and utilities.*

*Economic Injury Disaster Loans (EIDL) - designed for working capital (fixed debts payroll accounts payable).*

### PPP Overview

Provides small businesses with funds to pay up to 8 weeks of payroll costs, including benefits. Funds (maximum loan amount is \$10M) can be used for payroll, interest on mortgages, rent, and utilities. The entire loan amount may be forgiven. \$349B was allocated initially; \$310B was added on April 24, 2020; and approximately \$120B remains as of June 11, 2020. Funds are disbursed through financial institutions.

Small businesses under this program are defined as manufacturers, suppliers, or resellers and the business must have fewer than 500 employees and have been in operation on February 15, 2020. This includes non-profits (501c3), veteran organizations (501c19), tribal businesses (31b2C), sole proprietorships, self-employed, and independent contractors. For all other businesses, size is assessed based on annual revenue specific to that industry (size standards are codified in 13 CFR 121.201). Businesses currently in bankruptcy and with owners subject to formal criminal charges or presently incarcerated, currently delinquent or defaulted within the last 7 years on a loan from SBA or any other federal agency, or suspended or debarred are ineligible.

Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2M will be deemed to have made the required certification concerning the necessity of the loan request in good faith. SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity.





## EIDL Overview

Provides small businesses with working capital for fixed debts, payroll, accounts payable, and other bills resulting from the pandemic. Funds are disbursed directly from SBA and are available until December 31, 2020. The Disaster Loan Emergency Advance is up to \$10K, maximum loan amount is \$2M, with a maximum unsecured loan amount of \$25K. On April 24, 2020, \$60B in funding was added.

Small businesses under this program are defined as cooperatives, employee stock ownership plans (ESOP), tribal small business, private non-profits with IRS designation 501(c),(d), or (e), private non-profits doing business under state law, and faith-based organizations. Business associated with illegal activity (as defined by Federal guidelines), with principals with 50% (or more) that are more than 60 days delinquent on child support, displays of a prurient sexual nature (directly or indirectly), more than 1/3 of gross annual revenue from legal gambling activities, or are agricultural enterprises (unless otherwise approved), state, local, or municipal governments, members of Congress, and in lobbying are ineligible.

Ineligible uses of the loan include paying owners (unless for performance of services), dividends or bonuses, repaying of stockholder/principal loans (with exceptions), for expansion of facilities, acquisition of fixed assets, relocation, repair or replacement of physical damages, federal debts except Internal Revenue Service, and refinancing long term debts.

## Scams

- Scam websites including fake brokers, loan agents, lenders, or other entities posing as gatekeepers to SBA loans
- Attempts to elicit personally identifiable information (PII) or proprietary financial information
- Misuse of SBA logo or insignia

## Borrower Fraud

- False statements on applications
- Fraudulent supporting documents (e.g., payroll, tax forms)
- Identity (ID) theft
- Corporate ID theft (shell corporations)
- Inflation of payroll





- Misuse of proceeds
- Unqualified borrowers
- Lender/broker fraud

## Fraud Indicators

- Request for upfront payments
- Offers for high-interest bridge loans
- Fees in excess of SBA limits
- New Employer Identification Numbers (EIN)
- Shell corporations/dormant EINs
- Recent business incorporations
- FinCEN reports/Suspicious Activity Reports (SAR)
- Inflation of payroll
- Large loan amounts
- False statements on applications
- Employee/employer collusion
- Newly created and/or multiple bank accounts with abnormal transaction activity
- Consumer accounts rather than business accounts
- Quick movement of money in and out of accounts (often within 1-2 days)
- Withdrawals made via cash or apps (e.g. Cash App, Zelle)
- Abnormal transaction activity for client based on historical transactions
- Transfers to overseas accounts known for poor anti-money laundering controls





## Frequently Charged Statutes

- § 18 USC 1343, Wire Fraud
- § 18 USC 1001, False Statements
- § 18 USC 1030, Computer Fraud
- § 18 USC 1031, Major Fraud
- § 18 USC 641, Conversion of Public Monies
- § 18 USC 1028, Identity Theft
- § 18 USC 1017, Use of Government Seal
- § 18 USC 1040, Disaster Fraud
- § 18 USC 1344, Bank Fraud
- § 18 USC 1345, Injunctions Against Fraud
- § 18 USC 371, Conspiracy

**Information contained in this alert was compiled from the following sources:**

*U.S. Secret Service Office of Investigations*

*U.S. Small Business Administration Office of Inspector General*

*U.S. Department of the Treasury Financial Crimes Enforcement Network (FinCEN)*

*National Cyber-Forensics and Training Alliance (NCFTA)*

***Contact your local U.S. Secret Service field office Cyber Fraud Task Force (CFTF).***

**<https://www.secretservice.gov/contact/field-offices/>**

