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**Client Advisory for Small Businesses and Startups:
SBA Paycheck Protection Program Loan and Economic Injury Disaster Loan Advance**

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On March 27, 2020, the Coronavirus Aid, Relief and Economic Security (CARES) Act was signed into law by President Trump. Two important loans are made available under the CARES Act to provide economic assistance for small businesses and startups: the *Paycheck Protection Program Loan* and the *Economic Injury Disaster Loan*.

1. Paycheck Protection Program (PPP) Loan

On April 3, 2020, many small community banks began taking applications for the PPP Loan. As of the close of business on Friday, over 13,500 loans valued at more than \$4.3 billion had been processed. It is expected that this number will significantly increase as the larger regional and national banks begin taking applications online as early as today with a total of 800 financial institutions participating.

While the program will be open until June 30, 2020, the Treasury Department is advising companies to apply as early as possible due to a funding cap of \$349 billion.

We provide basic guidance on the general aspects of the PPP Loan:

- **Eligible** small business recipients may qualify for a loan up to \$10 million.
- **Maximum Loan Amount** is 2.5 times your average monthly payroll costs (past 12 months).
 - Payroll costs generally include: salary, wages, commission or similar compensation; tips; vacation; parental, family, medical or sick leave; group healthcare benefits, retirement benefits; and state or local taxes on employee compensation.
 - Payroll costs DO NOT include: the compensation of an employee in excess of \$100,00 (as prorated for the covered period), taxes imposed or withheld under FICA and any compensation of an employee whose principal place of residence is outside the U.S.
 - Maximum loan requests should be (# of current Employees) x (\$100,000).
- **Loan application** is made directly through an SBA Lender. Be prepared to have all 20% or greater owners execute the loan application.
- **Loan Terms:** 1% interest for up to 2 years with principal and interest payments deferred for six months with no pre-payment penalties.
- **Loan Forgiveness.** So long as loan proceeds are applied to permissible expenses (payroll costs, rent, utilities, interest on debt) for the eight week period after securing a loan, the loan will be forgiven; otherwise, loan forgiveness may be reduced. At least 75% of the forgiven amount must have been used for payroll. **Interest payments due on a loan will not be forgiven.**
- **Ineligible businesses** include: (i) financial businesses (including mortgage companies) primarily engaged in the business of lending and investment companies, (ii) certain businesses that are majority-owned by individuals other than U.S. citizens or legal permanent residents, (iii) private clubs not classified as a 501(c)(3) nonprofit organizations, and (iv) businesses involved in gambling, life insurance, or speculation.
- **Documents:** Entity formation documents must be submitted to the Lender (e.g., articles/certificate of incorporation and bylaws; articles of organization and operating

agreement; partnership agreement and filed partnership certificate; trustee certification; or trade name certificate (DBA)).

Acceptable supporting documentation includes payroll processor records, payroll tax filings, Form 1099-MISC (for independent contractor applicants), or income and expenses from a sole proprietorship. If such documentation is not available, other supporting documentation must be provided, such as bank records, sufficient to demonstrate the average monthly payroll amount.

Again, we advise that you contact your financial institution or other SBA lender to facilitate your PPP Loan application.

2. Economic Injury Disaster Loan (EIDL) and Emergency Advance

COVID-19 has been designated a covered disaster throughout the United States, for which an Economic Injury Disaster Loan is available. Loans up to \$25,000 need no collateral and loans up to \$200,000 need no personal guarantee. However, any loan over \$25,000 will require a general security interest in the assets of the small business. The maximum EIDL is \$2 million which may be waived by the SBA under special circumstances. In addition to uses covered under a PPP Loan, an EIDL may be used for working capital to continue business operations, necessary expenditures to alleviate the specific economic injury suffered, increased supply costs and repaying debt that cannot be otherwise repaid due to revenue losses.

On March 29, 2020, the SBA changed the EIDL to include an option to apply for an emergency grant of up to \$10,000. There is a box to check for the \$10,000 loan advance within the EIDL application. This advance does not need to be repaid if the underlying EIDL application is denied; however, the EIDL may affect loan forgiveness under the PPP Loan, especially when it is used for the same purpose as the PPP Loan. Application is made directly to the U.S. Small Business Administration at <https://covid19relief.sba.gov/#/>.

For more information regarding economic assistance available to your small business during these unprecedented times, including the actual SBA Economic Injury Disaster Loan, SBA Express Bridge Loans and SBA Debt Relief, please be sure to visit the U.S. Small Business Administration's website at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options>.

***Duplication of Federal Funds w/ Special Note to SBIR/STTR Companies**

Federal funds may not be used in duplicate. For example, you cannot use the EIDL to satisfy payroll for the same time period under which a PPP Loan is utilized. Furthermore, **SBIR/STTR funded companies cannot use the PPP Loan or EIDL proceeds to duplicate payroll which has already been secured through grant funds or federal contracts. Thus, any federal loan proceeds for the utilization of payroll will need to be paid outside of the parameters of any existing grant or federal contract.**

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