SMALL BUSINESS ADMINISTRATION LOANS & NONPROFIT AFFORDABLE HOUSING PROVIDERS

NATIONAL LOW INCOME HOUSING COALITION

Small Business Administration (SBA) guidance released on May 12 clarified that real estate businesses that both own the property being rented and provide property management services are ineligible for Paycheck Protection Program (PPP) loans. Any business primarily engaged in owning or purchasing real estate and leasing it for any purpose is considered by SBA to be a "passive business" and therefore not eligible for a PPP loan.

NLIHC supports expanding PPP eligibility to non-profit providers of affordable rental housing. Contact your members of Congress today and urge them to expand eligibility for PPP loans to non-profit affordable housing providers in the next coronavirus relief package.

The "Coronavirus Aid, Relief, and Economic Security Act (CARES Act)" authorized the creation of two new financing programs through the Small Business Administration (SBA): the Paycheck Protection Program (PPP) and the Emergency Economic Injury Grant (EEIG) program, also known as the Economic Injury Disaster Advance Loan. These new programs, along with the Economic Injury Disaster Loan (EIDL), may be useful resources for nonprofit affordable housing providers who need additional funding to cover certain expenses during the COVID-19 crisis.

Applications for EIDLs and EEIGs are already open, and applications for PPP opened Friday, April 3. These funds are expected to be in high-demand and go quickly; it is critical for Congress to provide additional funding to address the urgent housing needs of low-income renters, including emergency rental assistance to ensure renters can remain housed throughout the coronavirus pandemic and housing providers are able to maintain standard operations.

PAYCHECK PROTECTION PROGRAM

Funded at $349 billion in the CARES Act and infused with another $360 billion in an interim spending bill, the PPP provides 24 weeks of forgivable loans to small business employers who maintain their payroll during the COVID-19 outbreak. Unlike typical SBA loans, PPP loans are available to a broader range of businesses and organizations, including tribal organizations, veterans' organizations, and nonprofits.

Eligibility Standards

As of May 12, 2020, SBA guidance clarified **that real estate businesses that both own the property being rented and provide property management services are ineligible for PPP loans**.

Businesses, tribal organizations, 501(c)(19) veteran organizations, and 501(c)(3) nonprofits with fewer than 500 total employees are eligible for loans through PPP. Sole proprietors, independent contractors, and self-employed individuals are also eligible, although they are subject to additional restrictions and requirements. Businesses with more than 500 employees but in an industry with an employee-based size standard through SBA, as well as businesses classified through the North American Industry Classification System (NAICS) as "Accommodation and Food Services" (NAICS code 72) through SBA, are also eligible for PPP.

While the CARES Act waives SBA affiliation rules for many qualifying businesses, nonprofit organizations must also meet SBA's affiliation standards in order to qualify for a PPP forgivable loan. Nonprofit organizations interested in PPP will have to borrow from a SBA 7(a) lender. It is likely that Community Development Financial Institutions (CDFIs) and LLC management companies controlled or managed by a nonprofit would meet qualification requirements. Potential borrowers must also make a "good faith certification" to the SBA and SBA lender demonstrating that "the uncertainty of current economic conditions makes the loan necessary to support ongoing operations."

Loan and Loan Forgiveness Details

A business or organization may borrow 250% of their average monthly payroll expenses or up to $10 million, whichever is less. Eligible borrowers may only receive one PPP loan. The amount of the principal loan that may be forgiven is equal to: (1) the sum of payroll expenses (including paid sick, family, vacation, or medical leave, group health insurance premiums, employer shares of retirement program contributions, and employee salaries up to an annual pay rate of $100,000); (2) existing interest payments on mortgages; (3) rent payments, leases, and utility service agreements, and (4) interest payments on any other debt obligations sustained before February 15, 2020. No more than 40% of the loan being forgiven can be attributable to non-payroll costs.

The covered loan period extends from February 15, 2020 to June 30, 2020. Borrowers have until the end of 2020 to spend their PPP loan, but can apply for loan forgiveness after eight weeks. In order to qualify for full loan forgiveness, borrowers must use their loan for the aforementioned covered expenses and keep all of their employees on payroll for the 24-week period for which the loan is provided. If employees are laid off, the borrower's forgiveness amount is reduced by the percent decrease in the number of employees. If employees have already been laid off, a borrower can still qualify for full forgiveness if they rehire the laid-off employees by December 31, 2020.

Loans are subject to an interest rate of 1%, and borrowers can defer payments for up to six months and have five years to repay the portion of the loan that is not forgiven. If a borrower qualifies for full forgiveness on the principal PPP loan, the borrower is not responsible for paying off any interest accrued in the 24-week covered period.

Read SBA's interim final rule on PPP loans here.

Download a PPP Borrower Application Form here.

ECONOMIC INJURY DISASTER LOANS AND EMERGENCY ECONOMIC INJURY GRANTS

The Economic Injury Disaster Loan (EIDL) program offers states and territories low-interest federal disaster loans through the SBA. These loans are distributed to small businesses and private, nonprofit organizations that have experienced a substantial economic impact due to the COVID-19 outbreak. The EEIG program provides small businesses and nonprofits with an emergency grant of up to $10,000 that does not need to be repaid. To apply for a grant through the EEIG program, a business or organization must first apply for an EIDL and will be able to request a grant in the EIDL application.

Eligibility Standards

Currently, small businesses and private, nonprofit organizations in all states and territories are eligible to apply for assistance through the EIDL program because of the COVID-19 outbreak. Typically, a state or territory's governor must first work with SBA's Office of Disaster Assistance to submit a request for EIDL assistance. SBA has the authority to approve the request and issue an EIDL declaration for the state or territory. Once an EIDL declaration is issued, EIDL loan applications are made available for small businesses and private, nonprofit organizations throughout the state or territory.

Loan Details

EIDLs can provide up to $2 million in assistance to affected businesses and organizations to help cover a temporary loss of revenue experienced because of the COVID-19 pandemic. Loans can be used to pay fixed debts, accounts payable, and other bills, including cleaning expenses associated with helping nonprofit affordable housing providers maintain CDC-recommended hygiene practices during the coronavirus outbreak. EIDL loans have an interest rate of 2.75% for nonprofit borrowers and offer long-term repayment plans of up to 30 years. Businesses and organizations can receive loans from both the EIDL program and the PPP, although the loans cannot be used for the same purposes. Borrowers that receive an EIDL may also refinance their EIDL into a PPP loan.

The “CARES Act” also authorized the creation of the Emergency Economic Injury Grant (EEIG) program (aka, Economic Injury Disaster Advance Loan program) to provide quick economic relief to businesses and nonprofit organizations experiencing a temporary loss of revenue. Through the EEIG program, organizations can receive a loan advance of up to $10,000, distributed within three days of submitting an application. EEIG funding does not have to be repaid. If a borrower who has received funding through the EEIG program is also approved for a PPP loan, the amount of the PPP loan will be reduced by the amount of EEIG funds received.

You can apply for EIDL and EEIG funding here.

For more information, contact NLIHC Vice President of Public Policy, Sarah Saadian at ssaadian@nlihc.org.