

**U.S. Small Business Administration (SBA) Support
The Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
March 26, 2020**

The Bipartisan Policy Center (BPC) and the Committee for Economic Development (CED) of The Conference Board worked together to produce this summary of the U.S. Small Business Administration (SBA) assistance contained in the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) specifically for child care providers.

It is our hope that this brief may be helpful to those in the child care field who may need immediate access to working capital as a result of the COVID-19 emergency.

U.S. Small Business Administration Supports for Child Care Providers

The SBA administers several different types of programs designed to provide access to capital for small businesses.

Before the COVID-19 emergency, most of these programs were designed to provide loans or loan guarantees, which enable an intermediary organization such as a bank, credit union, or certified development financial institution (CDFI) to offer loans, backed up by the SBA guarantee rather than the lender taking on the full risk of the loan. In addition, SBA offered disaster loans.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act). With the current COVID-19 impact on small business, Congress has utilized the SBA delivery infrastructure to give fast access to capital to small businesses—broadening eligibility for applicants and turning grants into loans in many cases (as long as the new rules are followed).

IN BRIEF: NEW PAYCHECK PROTECTION PROGRAM

**SBA 7(a) loan guarantee program
The CARES Act provides \$349 billion.**

The SBA's largest (and most widely known) loan program (referred to as "7(a)" after the code section in the law) provides loan guarantees not direct loans. The guarantees support approved lenders, such as banks and CDFIs, to make loans. Enormous changes have been made to the program through the CARES Act to broaden eligibility and provide loan forgiveness for a list of eligible expenses.

Eligibility: In addition to for-profit small businesses, the following are also eligible to apply: nonprofit organizations, veterans organizations, tribal businesses, sole proprietors, independent contractors, and self-employed individuals. Businesses with more than one physical location that employ no more than 500 employees per location can also apply.

Loan Amounts: Maximum \$10 million (for those applying between February 15, 2020 and June 30, 2020). There is a formula that is used to determine the size of the loan.

Covered Loan Period. February 15, 2020 ending on June 30, 2020.

Loan Uses: Loans must be used for specific purposes such as wages, paid sick or family leave, health insurance benefits, retirement benefits, mortgages or rent, or utilities in order to be forgiven. In other words, it is called a loan but if used for eligible purposes, it's a grant. If the loan is used for non-eligible purposes, it will have to be repaid. A full list of eligible purposes and rules follows.

Fees & Interest Rates: Fees and interest rates are waived, as long as the borrower uses the funds for eligible purposes.

How to Access Loans.

<https://www.sba.gov/funding-programs/loans>

**DETAILS: Payroll Protection Program
New Rules Related to “Forgivable Loans”
Similar to Grants**

Under the CARES Act, SBA programs have been modified to provide fast capital for small businesses. For loans to be forgiven (equated to a grant), the rules must be followed.

BORROWER REQUIREMENTS

Certification. Eligible applicants for a SBA 7(a) loan shall make a good faith certification:

- that the uncertainty of current economic conditions makes the loan necessary to support ongoing operations, and
- agree that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments.

Loan applicants cannot “double dip” (apply for multiple programs that pay for the same costs).

No Collateral & No Personal Guarantee. During the covered period (February 15, 2020 – June 30, 2020), with respect to a covered loan:

- no collateral shall be required for the loan; and
- no personal guarantee shall be required for the loan.

Waiver of Credit Elsewhere. Past SBA loans required that private market loans be sought first. This requirement is waived. (Applicants can apply for SBA loans without being rejected somewhere else first).

Ability to Repay. Prior SBA loans required applicants to demonstrate repayment ability. Instead, lenders are directed to consider:

- Whether the business was in operation on February 15, 2020, and
- had employees for whom the borrower paid salaries and payroll taxes, or
- paid independent contractors as reported on a Form 1099–MISC.

This is a significant change from the way loans are generally considered. The intent is to expand access to working capital so that whether businesses are closed or open, fixed costs can be met (so that after the COVID-19 emergency is over, small businesses can resume operating).

DETAILED ALLOWABLE LOAN USES

During the covered period, loans may be used for the following purposes (loan funds used for other purposes will not be forgiven):

- payroll costs,
- costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums,
- employee salaries, commissions, or similar compensation,
- payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation),
- rent (including rent under a lease agreement),
- utilities, and
- interest on any other debt obligations that were incurred before the covered period.

What Counts as “Payroll Costs”

Payroll costs can be a broad term. The following definition is included in the CARES Act:

- salary, wage, commission, or similar compensation,
- payment of cash tip or equivalent,
- payment for vacation, parental, family, medical, or sick leave,
- allowance for dismissal or separation,
- payment for group health care benefits, including insurance premiums,
- payment of any retirement benefit, or
- payment of State or local tax assessed on the compensation of employees, and
- the sum of payments of any compensation to a sole proprietor or independent contractor that is a wage, commission, or similar compensation and that is in an amount that is not more than \$100,000 in 1 year, as prorated for the covered period.

Payroll costs cannot include:

- compensation for an individual employee in excess of an annual salary of \$100,000 as prorated for the covered period,
- taxes imposed or withheld during the covered period,
- compensation of an employee whose principal place of residence is outside of the United States,
- sick leave wages for which a credit is allowed under the Families First Coronavirus Response Act (Public Law 116–127); or
- family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.

LOAN FORGIVENESS REQUIREMENTS

Loan recipients will receive forgiveness of indebtedness (treatment of the loan as a grant) in an amount that reflects the use of funds for eligible costs.

Loan forgiveness applies to eligible expenses made during the eight-week period after the origination date of the loan.

Penalty for reduction of employees or significant pay reduction of employees.

The amount of the loan that is forgiven is related to expenses, however, there are some other requirements.

Reduction of forgiveness based on employee job cuts and/or wage cuts. The amount of loan forgiveness shall be reduced by any reduction in employees retained compared to the prior year and also by any wage cuts beyond 25 percent of previous year wages for employees. Borrowers who rehire any employees who were let go beginning on February 15, 2020 and the date that falls 30 days after the date of enactment of the CARES Act will not be penalized for having a reduced payroll. There is a complicated calculation for which federal agencies will be required to write rules.

Loan amounts that have been forgiven (treated as grants) will not be taxable.

Applications for Loan Forgiveness. Small businesses that seek loan forgiveness shall submit an application to the lender that is servicing the loan that includes documentation verifying the number of full-time equivalent employees on payroll and pay rates for the periods described including:

- payroll tax filings reported to the Internal Revenue Service, and
- state income, payroll, and unemployment insurance filings,
- documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments, and
- a certification that:
 - the documentation presented is correct, and
 - the amount for which forgiveness is requested was used to retain employees, make interest

- payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments, and
- any other documentation the SBA determines necessary.

No borrower will receive forgiveness without documentation submitted to the lender.

MATURITY FOR LOANS WITH REMAINING BALANCE AFTER APPLICATION OF FORGIVENESS

With respect to a covered loan that has a remaining balance after the reduction based on the loan forgiveness for eligible expenses, the remaining balance shall continue to be guaranteed by the SBA and borrowers will have 10 years from the date of application to repay any outstanding balance. The outstanding loan balance will be subject to an interest rate not to exceed 4 percent.

LOAN DEFERMENT

Lenders shall provide deferment relief for borrowers with covered loans for a period of not less than six months, including payment of principal, interest, and fees, and not more than one year. Interest and fees apply to noncovered expenses.

Other Eligible Borrowers (Who Have Different Documentation Requirements)

An eligible self-employed individual, independent contractor, or sole proprietorship seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service (IRS), Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the SBA and IRS.

- An independent contractor seeking a loan shall submit each Form 1099– MISC that contains reportable compensation.

- An individual who operates under a sole proprietorship shall submit each schedule filed or to be filed with a tax return that documents any income or expenses for the sole proprietorship.

EMERGENCY ECONOMIC INJURY DISASTER GRANTS (EIDL Grants)

The CARES Act provides \$10 billion for Economic Injury Disaster Loans (which in the CARES Act are referred to as EIDL Grants) and are available under a presidential disaster declaration. All areas of the country currently qualify. The original purpose of this program was to provide working capital to help small businesses during or after a disaster until normal operations can continue.

EIDL Grant Eligibility. The following are eligible under the CARES Act for EIDL grants:

- a business with not more than 500 employees,
- any individual who operates under a sole proprietorship, with or without employees, or as an independent contractor,
- private nonprofit organizations,
- a tribal small business with not more than 500 employees,
- a cooperative with not more than 500 employees,
- an Employee Stock Ownership Plan (ESOP) with not more than 500 employees, and
- small agricultural cooperatives.

Covered period. The period for applications is January 31, 2020 to December 31, 2020.

Terms & Personal Guarantees. With respect to EIDL Grants in response to COVID–19, the SBA shall waive:

- rules related to the personal guarantee on advances and loans of less than \$200,000,

- the requirement that an applicant needs to be in business for the 1-year period before the disaster, and
- the requirement that an applicant be unable to obtain credit elsewhere.

Ability to Repay. In response to COVID–19 during the covered period, the SBA may:

- approve an applicant based solely on the credit score of the applicant and shall not require an applicant to submit a tax return or a tax return transcript for such approval, or subject to new SBA rules, or
- use alternative appropriate methods to determine an applicant’s ability to repay.

EIDL EMERGENCY GRANTS

During the covered period, loan applicants may request that the SBA provide an advance on the loan of up to \$10,000, which is required to be distributed within three days.

Verification. Before disbursing amounts under this emergency authority, the SBA shall verify that the applicant is an eligible entity by accepting a self-certification from the applicant under penalty of perjury.

Use of Funds. The advance funding may be used for the following purposes:

- providing paid sick leave to employees unable to work due to the direct effect of COVID–19,
- maintaining payroll to retain employees during business disruptions or substantial slowdowns,
- meeting increased costs to obtain materials unavailable from the applicant’s original source due to interrupted supply chains,
- making rent or mortgage payments, and
- repaying obligations that cannot be met due to revenue losses.

Repayment. An applicant shall not be required to repay any amounts of an advance provided

under this subsection, even if subsequently denied a loan.

Unemployment Grant. If a borrower receives an advance under the EIDL emergency program, and subsequently transfers into the 7(a) loan program, the advance amount shall be considered when determining loan forgiveness for payroll costs made under the new rules applicable to SBA 7(a) loans.

The Emergency EIDL Grants program terminates on December 30, 2020.

To Apply for Disaster Loans through the SBA: <https://disasterloan.sba.gov/ela/>

Debt Relief. For six months, the SBA will pay all principal, interest and fees on all existing SBA loan products including 7(a), Community Advantage, 504/Certified Development Company business loans, and Microloan programs for six months.

RESOURCES AND SERVICES IN LANGUAGES OTHER THAN ENGLISH

The SBA shall make the resources and services related to SBA COVID-19 programs available in the 10 most commonly spoken languages, other than English, in the United States, which shall include Mandarin, Cantonese, Japanese, and Korean. \$25 million is provided to carry out such services.

Agencies that have Authority to Make SBA Loans

Lenders currently approved to make SBA loans will administer the new Paycheck Protection Program. Additional lenders will be determined by the SBA and the Department of Treasury to process, close, disburse and service loans to meet the expected demand under the program. To find a lender in your community:

<https://www.sba.gov/funding-programs/loans/lender-match>.

Lenders will be paid by the SBA based on the balance of loans processed,

- 5 percent for loans of not more than \$350,000;
- 3 percent for loans of more than \$350,000 and less than \$2,000,000; and
- 1 percent for loans of not less than \$2,000,000.

SBA TECHNICAL ASSISTANCE

Small Business Development Centers (SBDCs). SBDCs are hosted by colleges or state economic development organizations in every state and provide counseling and training on all financial matters related to operating a small business including support to understand SBA programs.

To find SBDCs in your state:

<https://americassbdc.org/small-business-consulting-and-training/find-your-sbdc/>

Women’s Business Centers (WBC) program.

The SBA Women’s Business Center program funds more than 100 nonprofit organizations throughout the country that primarily serve women entrepreneurs. Many WBCs provide multilingual services, offer flexible hours (including evenings and weekends). WBCs provide business support and training, and assist clients to help them access SBA loans.

To find WBCs in your state:

<https://www.sba.gov/local-assistance/find/?type=Women%27s%20Business%20Center&pageNumber=1>

Minority Business Development Agency (MBDA, Department of Commerce).

The Minority Business Development Agency (MBDA) Business Center Program operates throughout the country to expand access to capital for minority business owners. MBDA centers provide business support and help minority business owners navigate financial resources in the private market and in federal agencies.

A list of MBDA is located here:

<https://www.mbda.gov/businesscenters#4/34.05/-111.95>

The CARES Act includes \$240 million for SBDCs and WBCs, and \$10 million for MBDA centers. The required match for these programs is waived.

EMERGENCY RULEMAKING AUTHORITY

The CARES Act directs the SBA to release rules related to all these program changes within the next 15 days. These rules will help clarify how the programs will work so that both those who administer the programs and those who apply for the programs fully understand the available assistance and expected ways to comply.

BPC and CED will continue to monitor any federal guidance that is released and provide additional materials to support access to SBA assistance for the child care field.

In these difficult times, it is important that child care providers understand all options for financial assistance that may be available. The supply of child care in the short-term and long-term is at stake.