

BUSINESSES SHOULD NOT OVERLOOK ECONOMIC INJURY DISASTER LOANS

Although not getting as much attention as forgivable Paycheck Protection Program loans, Economic Injury Disaster loans are a viable alternative or complementary emergency loan for businesses — especially businesses that do not have many employees, such as real-estate holding companies.

The CARES Act provide an opportunity for borrowers by waiving certain requirements that otherwise renders many businesses ineligible to receive EID loans. Under the CARES Act, a business that does not meet the Small Business Administration's small business criteria can still qualify for EID loans if the business has no more than 500 employees. The CARES Act also waives for EID loans the SBA's requirement that an applicant demonstrate that it is unable to obtain credit elsewhere, often a significant hurdle for potential borrowers.

Other terms of EID loans include:

Loan Amount: Up to \$2 million, as determined by the SBA based on COVID-19 impact on and creditworthiness of applicant.

Payment Terms: Loan term of up to 30 years. Interest rate of 3.75% for businesses and 2.75% for non-profits. Unlike PPP loans, EID loans cannot be forgiven, with the exception of the \$10,000 emergency advance described below. Payments deferred for 12 months after disbursement.

\$10,000 Advance: Applicants are eligible to receive an emergency advance of up to \$10,000 by submitting an application. If application is denied, the advance is forgiven (though the forgivable advance reduces the amount of any PPP loan that can be forgiven).

Use of Proceeds: EID loans are working capital loans and may be used for fixed debts, payroll, accounts payable, and other expenses that cannot be paid because of COVID-19's impact.

Personal Guaranty: Required of owners with 20% or more of equity, except for EID loans of \$200,000 or less.

Collateral : Loans of more than \$25,000 require borrowers to pledge available collateral, but

lack of available collateral will not cause an application to be rejected.

Underwriting: Based on SBA review of credit score.

Affiliation Rules: EID loans are subject to the SBA's affiliation rules, which are discussed [here](#).

Other Loans: PPP loan applicants may also apply for EID loans, but the loans are not supposed to be used for the same purpose.

Dates: Application deadline is December 21, 2020. The SBA initially indicated that the \$10,000 advances would be made within three days after submission of application and certification but the SBA now indicates that the advances will be paid "within days" of a final submission of an application. Loan approval is expected within 21-30 days after complete application submitted. Funding of loan will be within four days after approval.

Application Process: Borrowers apply directly to the SBA, not banks, for EID loans. The application can be found [here](#).

A borrower will likely need permission from any existing lender to obtain an EID loan because loan agreements typically restrict a borrower's ability to incur additional indebtedness and or grant additional security interests or mortgages.

O'Neil, Cannon, Hollman, DeJong and Laing remains open and ready to help you. For questions or further information relating to Economic Injury Disaster loans, please speak to your regular OCHDL contact, or the author of this article, attorney [Pete Faust](#).