

IDES Small Business Q&A and Unemployment Update

Essential Business

Q: Can an employee for an essential business who is able to work from home return to the physical workplace if they wish to?

A: Just because a business is deemed essential does it mean that all employees are required to go in to work. DCEO will defer to the business/school to determine who is required to come to work. While a business has been deemed to be essential that doesn't necessarily mean an employee needs to be on premise. That decision is up to the employer.

EIDL/PPP Loans: General

Q: Can individuals apply for, be offered, and accept more than one loan?

A: Yes. A business can apply for both the Emergency Injury Disaster Loan and the Paycheck Protection Program loan and receive both. However, loan funds have to be used for different purposes. You cannot use both EIDL funds and PPP funds for payroll. You can, however, use PPP funds for payroll, and EIDL funds for working capital.

Q: Does applying for one loan (federal, state, city, etc) automatically disqualify someone from another loan?

A: No. However, loans are need based and could factor into receiving a secondary loan.

Q: How is "in operation on Feb 15th, 2020" defined? Does that mean they have to have captured revenue, or can they have been a business preparing to open their doors with all their paperwork, tax documents, etc. filed?

A: Yes, they would have been considered in operation on February 15th, 2020. For the PPP program however, they would have had to begin payroll because it the purpose of the loan and how the loan is determined.

Q: How will SBA's PPP loans impact businesses that laid people off prior to the Executive Order issued by Gov. Pritzker?

A: It would impact the amount of the loan and whether it is forgiven. The maximum loan amount is the lesser of: (1) (a) the average total monthly payments by the applicant for payroll costs incurred during the one-year period before the date the loan is made, multiplied by (b) 2.5; and (2) \$10 million. Loan forgiveness is eligible for those employers that retain or rehire laid off employees between February 15 – June 30, 2020. Loan forgiveness amount is reduced if employee's wages are reduced or number of employees reduced. The loan is forgiven at the end of the 8-week period after you take out the loan. Borrowers will work with lenders to verify covered expense and the proper amount of forgiveness. Borrowers can choose which 8 weeks they want to count towards the covered period, which is between February 15 – June 30, 2020.

EIDL/PPP Loans: Staff Retention

Q: Does the SBA PPP requirement to retain 50% of staff mean that they have to be retained NOW, or when the business reopens? How will this be enforced?

A: It's not a requirement to receive loan funds, it is a requirement to have the loan forgiven. Borrowers will work with lenders to verify covered expense and the proper amount of forgiveness. The spirit of the loan is to keep people employed and pay payroll.

Q: If a business is required to keep 50% of their staff NOW, are they ineligible for a PPP loan if they CANNOT safely operate (e.g. a hairdresser)?

A: No. You can apply for the PPP loan and receive funds to pay payroll and not be operating.

Q: If they are required to retain staff NOW, is there any flexibility in the requirement to retain 50% of the staff? What about a restaurant that is open and capturing some revenue, but barely enough to stay afloat. For some, retaining 50% of their staff is unnecessary under the current operating conditions. For others, there is no work to be done (e.g. a hair salon) and it's counterproductive to bring back staff now and pay them when the business cannot generate revenue.

A: It would impact the amount of the loan and whether it is forgiven. The maximum loan amount is the lesser of: (1) (a) the average total monthly payments by the applicant for payroll costs incurred during the one-year period before the date the loan is made, multiplied by (b) 2.5; and (2) \$10 million. Loan forgiveness is eligible for those employers that retain or rehire laid off employees between February 15 – June 30, 2020. Loan forgiveness amount is reduced if employee's wages are reduced or number of employees reduced. Note: There is also the Emergency Injury Disaster Loan that does not have a retain or rehire employment requirement which I would encourage you to have your constituency look into. That loan is administered directly through the SBA.

DCEO/EIDL/PPP Loans: Non-Profits

Q: Are the rules for 501(c)3s applying for PPP exactly the same as small businesses?

A: Yes.

Q: What are the limits to 501(c)3s accessing 7(a)/PPP loans? Do they already need to be receiving federal grant dollars (e.g. NEA, NEH, etc)?

A: No.

Q: If a 501(c)3 employs over 500 employees across the state, but no more than 500 employees per location, are they eligible for PPP?

A: No.

Q: Are Illinois Small Business Emergency Loans available to non-profits?

A: Illinois Small Business Emergency Loans are not available to non-profits. Must be for-profit corporation or limited liability corporation, partnership or sole proprietorship authorized to conduct business in the State of Illinois.

Downstate Small Business Stabilization Grant

Q: Can business owners apply for both the SBA loan program and the Downstate Small Business Stabilization Grant?

A: Yes. However, this is a need-based grant. Applications will be reviewed to assure businesses need the working capital to remain open or reopen their business, to determine the amount of appropriate funding, and complete an analysis on eligibility for participation in the program.

Q: One business interested in the Small Business Stabilization Grant is an eye care facility. Are they considered an essential health related business which wouldn't qualify for this program or a non-essential commercial business that may apply?

A: Eye care is explicitly listed in the EO as an essential business. It is unlikely that they would receive a grant. As it says in the guidebook: "Funds may be used to assist private for-profit small businesses considered non-essential by the Governor's Executive Order without the ability for employees to work

remotely... Some exceptions to the essential business requirement may be made if other social-distancing directives make it impossible for the business to continue and that situation is satisfactorily demonstrated in the application. Exceptions will be made on a case-by-case basis; all decisions are final.”

Q: For those interested in applying for the Small Business Stabilization Grant, there is a concern about privacy. If the city needs to submit and hold a public hearing, does that mean that all Business financial records required as part of the application are open for public viewing or FOIA requests?

A: This grant does not require extensive financial documentation such as profit and loss statements, tax returns, payroll tax submissions, etc. However, to confirm a successful business track record it does require the singular net income and cash balance amounts for years ending 2017, 2018 and 2019, and the current cash balance. It does not ask for supporting documentation other than a current bank statement to confirm the current cash balance, and the account number should be redacted. Additionally, it asks for a monthly budget to show the business’s working capital needs, which the grant amount is based on. Public participation is a part of all decisions a local government makes, and this is no different, as the local government is making a commitment. Further, public participation and a public hearing is a requirement for this federally funded grant. As the application is the subject of the discussion, it must be made available if requested.

Q: May the city submit multiple business requests under one grant application or do we need to have separate submittals for each?

A: Yes.

Q: Do employees of employers who are seeking the PPP Loan still qualify for unemployment insurance?

A: If they were temporarily laid off, then yes. Under emergency rules IDES recently adopted, the individual would not have to register with the employment service. They would be considered to be actively seeking work as long as the individual was prepared to return to his or her job as soon the employer reopened. If the employer was granted the PPP loan and restarted payroll, the individual would no longer qualify for unemployment because the individual would start earning more than their weekly benefit amount in a week.

Q: Can independent contractors qualify and apply for both EIDL and PPP loans?

A: Yes. That’s new with the CARES Act. Note though, if they plan to apply for both, businesses cannot receive an Economic Injury Disaster Loan (EIDL) and a Paycheck Protection Program (PPP) loan for the same purpose, like covering payroll costs. They can use both in a different way though. If they take advantage of an emergency EIDL grant advance up to the \$10,000, that amount would be subtracted from the amount forgiven up to the PPP loan. Businesses can also refinance an EIDL into the PPP loan for loan forgiveness purposes. Remaining portions of the EIDL, for purposes other than those laid out in loan forgiveness for a PPP loan, remain a loan.

Q: For the Hospitality Emergency Grant Program, are the qualifications for the entire company or broken down for each individual location?

A: The intent is to judge the size based on annual revenue of the business (tax return), the qualification for restaurants (and hotels as well) should be for the entire company, and not the revenue of an individual business. The annual revenue figure would be reflective of the whole company, not just an individual restaurant.

TO BE DETERMINED

Q: Can a business owner pay themselves a salary are they allowed/ should they include their salary when calculating their average monthly payroll?

TBD: While we cannot answer with certainty until the SBA weighs in, we can say with reasonable confidence that if it's been part of their payroll costs from Feb 15 then they can include the owner's salary in the monthly payroll if it is less than \$100,000 per year. The PPP loans will go through a lender, not the SBA, and the lender will have broad discretion to approve the loan but it is unlikely that they'd have discretion to change that. From the law:

"Payroll Costs" are defined to include payments for salary, wage, commission, or similar compensation; payments for cash tip or equivalent; payments for vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payment required for the provisions of group health care benefits; payment of any retirement benefit; payment of state or local tax assessed on the compensation of employees; payments of any compensation or income of a sole proprietor or independent contractor that is an amount not more than \$100,000 in 1 year, as prorated for the period February 15, 2020 through June 30, 2020. "Payroll costs" do not include the compensation of an individual employee in excess of an annual salary of \$100,000, as pro-rated for the period February 15, 2020 through June 30, 2020; taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code; compensation of an employee whose principal place of residence is outside of the United States; and qualified sick leave wages or qualified family leave wages for which a credit is already allowed under the Families First Coronavirus Response Act.

Q: Can an individual who operates a small business from home pay for their home office with EIDL funds?

TBD. As the applicant goes through the loan application process, the loan documents will define what are eligible uses and the business owner will be able to discuss these with the loan officer.