

contractors; and tribal businesses, cooperatives, and employee stock ownership plans with no more than 500 employees. Any business applying for an EIDL Loan must have been in business as of January 31, 2020, and certify that it has suffered a substantial economic injury due to COVID-19.

LOANS ARE NON-RECOURSE; NO NEED TO ESTABLISH CREDITWORTHINESS.

The CARES Act modifies the EIDL program by waiving the personal guarantee requirement for loans less than \$200,000. Applicants need not prove they have been in operation for a year before COVID-19 nor do they have to establish they cannot obtain credit elsewhere.

EIDLs are offered to small businesses with an interest rate of 3.75%, and 2.75% for nonprofit organizations. Payments may be deferred for

up to one year. Businesses may also be eligible to receive \$500,000 in loan proceeds for the first six-month term. However, repayment terms are ultimately determined on a case-by-case basis, and some, but not all, businesses can expect to repay an EIDL over thirty years.

WHAT ARE \$10,000 EMERGENCY "EIDL GRANTS"?

The CARES Act also expands the reach of EIDLs by appropriating \$10 billion for EIDL Grants. EIDL Grants are \$10,000 cash advances for businesses that apply for an EIDL Loan, which shall be paid by the SBA within three days of application. A business may use this advance for the same purposes as EIDL Loans. However, a business is not required to repay the EIDL Grant, even if the business's application for an EIDL Loan is ultimately denied. EIDL Grants are available from January 31, 2020 to December 31, 2020.

KEY CONSIDERATION: AVOID DUPLICATION OF EIDL AND PPP LOAN PROCEEDS.

One of the key considerations when assessing the EIDL and the PPP is that there is no duplication of the loans. During Hurricane Sandy, many homeowners obtained SBA loans only to later find out they were ineligible for grant money. The CARES Act calls for a similar interplay—borrowers that receive an EIDL for COVID-19 reasons cannot also receive a PPP for the same purpose. So, borrowers can get loans under both programs, but the proceeds must be used for different purposes. Note: borrowers may refinance their EIDL into a PPP assuming they meet eligibility requirements. If a borrower received an EIDL Grant and is later approved for a PPP, any amount advanced under the EIDL Grant program will be subtracted from the total amount forgiven under PPP.

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Do not hesitate to contact **Tom Herman** at **THerman@SmithDuggan.com** or **617-228-4415**, or any other member of the firm, if you have any questions about the EIDL loan or PPP loan programs, whether you or your company is eligible, whether it makes sense to apply, and what loan proceeds can be used for.