Q&A on PPP vs. EIDL and Related Considerations

Question: Do you have the ability to maintain a consistent level of payroll and headcount?
Answer:
• Forgiveness of the PPP loan is based on maintaining a consistent level of payroll expenses (compensation per person, total headcount) and spending the PPP loan proceeds on that payroll expenses (plus the other permitted costs) during the 8 weeks after the loan is made. If you lay people off or materially cut pay, it can impact the amount of loan forgiveness and the remainder of the PPP loan must be paid back over the following 2 years (after the 6 month deferral.)
• If you cannot maintain relatively even payroll and are worried about the two year payback period, consider an EIDL, which has a low interest rate and a longer term but is not forgivable.
• If you have laid people off, consider ramping the headcount and payroll back. This should be done as quickly as reasonably possible to make sure you are maximizing the amount of PPP loan proceeds that are used to fund payroll at the level it was during the reporting period you provided to your bank when calculating the amount of the loan.

Question: What can I spend the loan proceeds on?
Answer:
• The PPP loan may only be spent on payroll, rent, qualifying utility expenses and qualifying mortgage interest expenses. Of the PPP loan amount, at least 75% must be spent on payroll expenses.
• EIDL proceeds can be spent on operating costs more broadly, including for expenses like payroll and debt service costs that you cannot meet as a result of the disaster.

Question: How do I know what the loan amount will be?
Answer:
• The PPP loan is for fixed loan amount; 2.5x your average monthly payroll in the prior period (either calendar year 2019 or the 12 months before the loan application date, unless you are a seasonal business.) The loan amount cannot be more than $10,000,000.
• An EIDL is need based with a maximum amount of $2,000,000. Your application will help determine the loan size, which will correlate to demonstrated need.

Question: Who administers these loans?
Answer:
• For an EIDL, you apply directly through the SBA.gov website and all application materials are submitted through the SBA’s portal. For a PPP loan, you apply through a financial institution (local, regional or national bank, credit union or other approved lender) but your first point of contact should be with your primary depositary institution, as many banks are giving preference to current customers for these first come, first served loans.
Question: Who is eligible for these loans 
Answer:
• Eligibility has been expanded to virtually all small businesses, including 501(c)(3)s.  
  • For PPP eligibility, please see this link.
  • For EIDL eligibility, you must meet similar criteria (i.e.- you must be a small businesses, small agricultural cooperative, 501(c)(3)) and have suffered substantial economic injury.  Eligibility and loan amount are determined based on need.

Question: How is forgiveness calculated? 
Answer:
• The EIDL is not forgivable. For the PPP, forgiveness correlates to the amount of the loan that is spent on qualifying expenses in the 8 weeks after the loan is extended and pro-rated depending on how close you keep headcount and pay to your prior levels. That means if you lay off 25% of your workforce or cut everyone's pay 30%, the amount of forgiveness will be negatively impacted. Note, however, that the SBA is anticipated to release more guidance on the topic of forgiveness, including how it is calculated, shortly.

Question: Can I apply for both a PPP and an EIDL? 
Answer:
• The latest application for the PPP loan that was released by the SBA contemplates that the balance of an EIDL can be included in a PPP loan. That means you can have both (if the EIDL was taken out before the PPP). However, certain regulations note that you cannot use the proceeds from the loans for the same purpose. It is unclear how that restriction is interpreted in a practical manner.
• Because the EIDL is needs based, there is broad speculation that it would be difficult to obtain an EIDL once a borrower has obtained a PPP loan.

Question: When calculating payroll for purposes of a PPP application, there was initial guidance that the 12-month look-back period for the “average monthly payroll” was tied to a mid-February date. What period should a non-seasonal business use? 
Answer:
• Per the latest SBA guidance (as of April 10th), the borrower can elect to either use the calendar year 2019 figures or the figures for the 12 months preceding the loan date (i.e.- including through March 2020.)

Question: Is loan forgiveness “all or nothing”? For example, if an organization only spends 60% of the loan funds on payroll, would the entirety of the funds spent on payroll still be forgivable? 
Answer:
• At this time it is unclear how the SBA and lenders will calculate loan forgiveness but we do not currently expect it will be all or nothing. Instead, it is anticipated to be based on how much of the loan proceeds that the borrower spent on qualifying expenses and if it kept both head count and payroll costs steady over the 12 month payroll reporting period provided to the lender in connection with the loan application. To the extent the proceeds are spent other than as intended at the time of application, the expectation is that forgiveness would be proportionate to how close the borrower was to maintaining payroll and the expectation that 75% of the loan proceeds were spent on payroll costs during the 8 week period after the loan closed.