

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-0515

MEMORANDUM

To: Members, Committee on Small Business
From: Nydia M. Velázquez, Chairwoman
Date: June 10, 2020
Re: Full Committee Remote Hearing: “The Economic Injury Disaster Loan Program: A View from Main Street”

The Committee on Small Business will meet for a hearing titled, “The Economic Injury Disaster Loan Program: A View from Main Street.” The hearing is scheduled to begin at **1:00 P.M. on Wednesday, June 10, 2020, via webcast and dial-in (information to be provided)**. The hearing will allow members to learn about the Economic Injury Disaster Loan (EIDL) program, which was made available to small businesses, independent contractors, and certain nonprofits as a way to provide financial assistance for harm caused by the coronavirus pandemic. The hearing will explore the benefits of the loans and grants available through the EIDL program and the challenges businesses face in applying and receiving funds.

Panel:

- Ms. Nancy Sexton, Owner, The Muse Rooms, North Hollywood, CA
- Mr. Jerome Whack, Owner, Christian Street Pharmacy, Philadelphia, PA
- Dr. Craig Gerstein, Ophthalmologist, Gerstein Eye Institute, Chicago, IL
- Ms. Karen Kerrigan, President and CEO, SBE Council, Vienna, VA

Background

SBA disaster assistance for businesses is mostly in the form of loans to help businesses repair and replace damaged property and provide financial assistance to businesses that suffered economic loss as a result of a disaster.

Economic Injury Disaster Loan Program

EIDLs provide up to \$2 million for working capital (including fixed debts, payroll, accounts payable, and other bills that cannot be paid because of the disaster’s impact) to help small businesses, small agricultural cooperatives, small businesses engaged in aquaculture, and most private, nonprofit organizations meet their financial obligations and operating expenses that cannot be met as a direct result of the disaster (regardless if there has been physical damage to the business). Substantial economic injury “is such that the business concern is unable to meet its obligations as they mature or to pay its ordinary and necessary operating expenses.”¹ The loan can have a maturity of up to 30 years² and an interest rate of 4 percent or less.³

¹ 13 CFR § 123.300.

² SBA SOP 50 30 9 Ch. 2.4.A.6.

³ 13 CFR § 123.302.

First Coronavirus Supplemental

On March 6, 2020, Congress passed the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020,⁴ which deemed the COVID-19 outbreak a declarable disaster under the Small Business Act and provided SBA with an additional \$20 million for disaster assistance administrative expenses. The measure also permitted SBA to issue disaster declarations that make EIDLs available to eligible small businesses. On March 16, 2020, the Administrator began issuing such declarations in response to states seeking SBA disaster assistance. New criteria issued by SBA relaxed eligibility requirements for states/territories, which are now only required to certify that at least five small businesses within the state/territory suffered substantial economic injury, regardless of where the businesses are located.⁵

CARES Act

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act,⁶ which provided \$10 billion for the Emergency EIDL Grants, a new SBA program that would provide advance payments of up to \$10,000 and would not need to be repaid, even if the borrower is later denied the disaster loan. According to the law, the borrower must request the advance in the application, and SBA must disburse the advance within three days. In order to get the money into the hands of borrowers swiftly, the law streamlines the process for loan approvals and disbursements by:

- waiving the credit elsewhere requirement;
- approving an applicant based solely on credit score, instead of running a full credit check, or use alternative appropriate methods to determine an applicant's ability to repay;
- not requiring applicants to submit a tax return or tax return transcript for approval;
- waiving the personal guarantee on advances/loans up to \$200,000; and
- waiving the requirement that an applicant be in business for the one-year period before the disaster declaration.

Paycheck Protection Program and Health Care Enhancement Act

On April 24, 2020, Congress passed the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA),⁷ which appropriated an additional \$50 billion for EIDL loans and an additional \$10 billion for Emergency EIDL grants. The PPPHCEA also provided an additional \$2.1 billion for SBA's salaries and expenses account so that SBA could increase staffing to meet demand for the program. The PPPHCEA also expanded eligibility for EIDL loans and Emergency EIDL grants to agricultural businesses during the covered period.

⁴ P.L. 116-123.

⁵ U.S. Small Bus. Admin., *SBA Updates Criteria on States for Requesting Disaster Assistance Loans for Small Businesses Impacted by Coronavirus (COVID-19)*, (Mar. 17, 2020) <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-updates-criteria-states-requesting-disaster-assistance-loans-small-businesses-impacted>.

⁶ P.L. 116-136.

⁷ P.L. 116-139.

Current Issues

The Committee has heard from small businesses from across the country who have expressed their deep concerns and frustrations with the implementation of the EIDL and emergency grant program. The main issues of concern are:

1. Lack of Information on Status of Application

SBA has not instituted a workable process to allow borrowers who have applied but not received funds to monitor the progress of their applications. In the EIDL portal, individuals can check their status, however, few details are provided. The status is marked as “processing” up until it is “accepted” or “denied.” While SBA has stated applicants can monitor their progress by phone or email for additional details, Congress has heard reports that SBA customer service hotlines have not been particularly helpful or responsive, and in some instances, provided inconsistent information. In sum, small businesses across the country are reporting significant problems determining where they stand in the queue and any attempts to communicate with SBA through the recommended channels are fruitless.

2. Arbitrary Policy Changes and Lack of Communication

Congress has also learned SBA reduced the maximum amount of the EIDL loans from \$2 million to \$150,000 per small business, and limited the EIDL Advances to \$1,000 per employee.⁸ The Washington Post first reported this change on May 7, and similar concerns were echoed by panelists in virtual forums that were held by the Committee. These arbitrary policy changes are inconsistent with the law and Congressional intent. Making matters worse, the changes were not communicated effectively and in a timely way to borrowers, SBA field offices, and Resource Partners. Clear communication of policies and administrative changes are essential so field offices can get the word out to small businesses and the Resource Partners can provide vital counseling and training small businesses need at this time.

3. Slow Processing and Disbursement of Loans Despite Additional Resources

Moreover, Congress intended the additional infusion of funds to be used to provide a quick turnaround of the loans to struggling small businesses. As of May 30, 2020, 707,613 loans, amounting to nearly \$55.8 billion, have been disbursed.⁹ SBA has stated that they have received an unprecedented number of applications, which has delayed the process. With that said, Congress intended for these loans to provide immediate assistance. To meet the additional demand for EIDLs, Congress provided SBA with over \$2.7 billion in both the CARES Act and PPPHCEA for SBA’s Salaries and Expenses account to hire additional staff to carry out this and other programs. The Committee is concerned SBA is not utilizing all its available resources, including the additional funding for Salaries and Expenses, to reduce the current backlog of EIDL loans.

4. EIDL Access Currently Available Only to Agricultural Businesses

The Committee is concerned SBA has not re-opened the EIDL portal to small businesses and eligible entities beyond agricultural enterprises that were granted access under the PPPHCEA.

⁸ The Washington Post, *SBA slashes disaster-loan limit from \$2 million to \$150,000, shuts out nearly all new applicants*, (May 7, 2020) <https://www.washingtonpost.com/business/2020/05/07/sba-disaster-loans/>.

⁹ U.S. Small Bus. Admin., *Disaster Assistance Update: Nationwide EIDL Loans*, (May 30, 2020) <https://content.sba.gov/sites/default/files/2020-05/EIDL%20COVID-19%20Loan%205.30.20.pdf>.

The EIDL program has not accepted general applications for new loan since May 4th even though Congress appropriated an additional \$50 billion to support \$366 billion in new lending to all eligible small businesses, not just agriculture entities. In order to fully meet Congress' intent that the EIDL program be accessible to all kinds of small businesses, SBA should lift the restriction on access to the program to only agricultural businesses. Furthermore, SBA should establish a new queue for EIDL applications, which would enable SBA and Congress to fully understand the demand for the program so that Congress can provide additional resources if necessary.

5. Lack of Transparency

Finally, Congress remains concerned about the lack of transparency in the program, especially regarding program performance data. To date, Congress does not know how many applications are pending in SBA's queue, nor how quickly SBA is processing these applications. We also don't know approval/denial rates for EIDL loans. In order to evaluate the success and challenges with the program and determine whether additional funding is needed to meet the immediate needs of small businesses, Congress needs regular, timely, and complete data from SBA about pending and approved applications. Congress needs this information broken down by zip code and state, along with average processing time, to gain a better understanding of how SBA is meeting the demand for the program. Furthermore, SBA should be collecting anonymized, voluntarily provided applicant demographic data to understand how effectively this key program is reaching traditionally underserved communities at a time when they need it most. Without this information, Congress cannot evaluate the program nor determine how much additional funding or programmatic changes are needed.

Conclusion

Small businesses across the country who are struggling to keep their doors open turned to SBA for economic relief during these uncertain times. Much to their chagrin, they were met with additional uncertainty stemming from lack of communication, delayed approvals, and lack of transparency with the implementation of the EIDL program. It is vital that SBA improve its management of the program and provide regular and timely updates to Congress in order to ensure the program is being operated effectively for the 30 million small businesses across the country who count on it being open and available. Therefore, this hearing will offer Members the opportunity to hear directly from EIDL applicants regarding the challenges they've faced with the program, allowing Committee Members to conduct proper oversight of the program, identify potential issues, and make legislative improvements.