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SBA Disaster Loan Program: Frequently Asked Questions

Updated August 8, 2023

Congressional Research Service

<https://crsreports.congress.gov>

R44412

Summary

This report responds to frequently asked questions about the Small Business Administration (SBA) Disaster Loan Program. The SBA Disaster Loan Program provides *direct loans* to help businesses, nonprofit organizations, homeowners, and renters repair or replace property damaged or destroyed in a federally declared disaster. The program is also designed to help small agricultural cooperatives recover from economic injury resulting from a disaster. SBA disaster loans include (1) Home and Personal Property Disaster Loans, (2) Business Physical Disaster Loans, and (3) Economic Injury Disaster Loans (EIDL). Most direct disaster loans (approximately 80%) are awarded to individuals and households rather than small businesses. The program generally offers low-interest disaster loans at a fixed rate with loan maturities of up to 30 years.

Key issues of interest to Congress include

- how the program is put into effect,
- how much Congress appropriates to the program,
- what types of loans are available to businesses and homeowners,
- the use of SBA disaster loans in conjunction with insurance,
- loan interest rates and terms for SBA disaster loans,
- eligible activities,
- loan processing times, and
- collateral requirements.

For additional information on Small Business Administration Disaster Loan Program related to COVID-19, see CRS Insight IN11370, *SBA EIDL and Emergency EIDL Grants for COVID-19*, by Bruce R. Lindsay; CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry; and CRS Insight IN11357, *COVID-19-Related Loan Assistance for Agricultural Enterprises*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry.

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Introduction

This report responds to frequently asked questions about the Small Business Administration (SBA) Disaster Loan Program. Authorized by the Small Business Act, the SBA Disaster Loan Program has been a source of economic assistance to businesses, nonprofit organizations, homeowners, and renters as they repair or replace property damaged or destroyed in a federally declared disaster.¹ The SBA Disaster Loan Program is also designed to help small agricultural cooperatives recover from economic injury resulting from a disaster. SBA disaster loans include (1) Home and Personal Property Disaster Loans, (2) Business Physical Disaster Loans, and (3) Economic Injury Disaster Loans (EIDL).

This report provides general information about the SBA Disaster Loan Program. For more specific information about SBA disaster assistance for COVID-19, see CRS Insight IN11370, *SBA EIDL and Emergency EIDL Grants for COVID-19*, by Bruce R. Lindsay; CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry; and CRS Insight IN11357, *COVID-19-Related Loan Assistance for Agricultural Enterprises*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry.

SBA Disaster Loan Program: General Information and Questions

How Is the Program Put into Effect?

There are seven types of declarations that put the SBA Disaster Loan Program into effect; see below. The first two are presidential disaster declarations pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; P.L. 93-288, as amended; codified at 42 U.S.C. §§5121 et seq.). The remaining five are declarations by the SBA Administrator pursuant to the Small Business Act (P.L. 83-163, as amended; 15 U.S.C. §§631 et seq.). The type of declaration may determine the availability of certain types of loans, but it does not impact loan terms or loan caps. The applicant must be located in the declared disaster area to be eligible for SBA disaster assistance.²

The SBA Disaster Loan Program becomes available when:

1. The President issues a major disaster declaration and authorizes both Individual Assistance (IA) and Public Assistance (PA) under the authority of the Stafford Act.³ When the President issues such a declaration, all types of SBA home and business disaster loans become available to businesses, nonprofit organizations, and individuals and households.⁴

¹ 13 C.F.R. §123.3.

² Counties or other political subdivisions contiguous with the disaster area are also eligible for SBA disaster assistance.

³ Administered by FEMA, Individual Assistance (IA) includes various forms of help for families and individuals following a disaster event. IA authorized by the Stafford Act can include housing assistance, disaster unemployment assistance, crisis counseling, and other programs intended to address people's needs. For more information about FEMA's IA program, see CRS In Focus IF11298, *A Brief Overview of FEMA's Individual Assistance Program*, by Elizabeth M. Webster.

⁴ For more information about Individual Assistance, see CRS Report R46014, *FEMA Individual Assistance Programs*: (continued...)

2. The President makes a major disaster declaration that only provides the state, or certain areas of the state with PA.⁵ This type of declaration is often referred to as a “PA-only” declaration. If the President issues a PA-only declaration, a private nonprofit entity that provides noncritical services to the disaster area may be eligible for an SBA Physical Disaster loan or EIDL.⁶ PA-only declarations do not provide SBA disaster loans to businesses.
3. The SBA Administrator issues an economic injury disaster declaration in response to a determination of an emergency involving federal primary responsibility by the President.⁷ EIDLs become available to nonprofit organizations in the declared disaster areas when the SBA Administrator issues this type of declaration. Similar to a PA-only declaration, SBA disaster loans are not provided to businesses under this type of declaration.
4. The SBA Administrator issues a physical disaster declaration in response to a gubernatorial request for assistance.⁸ When the SBA Administrator issues this type of declaration, SBA disaster loans become available to eligible businesses, nonprofit organizations, and individuals and households.
5. The SBA Administrator issues an EIDL declaration based on the determination of a natural disaster by the Secretary of Agriculture.⁹ These loans are available to eligible small businesses, small agricultural cooperatives, and most private nonprofit organizations. Additionally, the SBA administrator may issue a declaration based on the determination of the Secretary of Commerce that a fishery resource disaster or commercial fishery failure has occurred.¹⁰
6. The SBA Administrator issues an EIDL declaration when SBA receives a certification from a state governor that at least five small businesses have suffered substantial economic injury as a result of a disaster. This declaration is offered only when other viable forms of financial assistance are unavailable. Small agricultural cooperatives and most private nonprofit organizations are

An Overview, by Elizabeth M. Webster. For more information about Public Assistance, see CRS Report R46749, *FEMA’s Public Assistance Program: A Primer and Considerations for Congress*, by Erica A. Lee.

⁵ Public Assistance (PA) provides various categories of assistance to state and local governments and nonprofit organizations. Principally, PA covers the repair or replacement of infrastructure (roads, bridges, public buildings, etc.), but it also includes debris removal and emergency protective measures, which cover additional costs incurred by local public safety groups through their actions in responding to the disaster. FEMA’s PA program provides assistance only to public and nonprofit entities. For more information on FEMA’s PA program, see CRS In Focus IF11529, *A Brief Overview of FEMA’s Public Assistance Program*, by Erica A. Lee.

⁶ In order to receive FEMA grant assistance, these entities must first have applied for an SBA disaster loan and deemed ineligible or received the maximum amount of assistance from SBA before seeking grant assistance from FEMA.

⁷ Section 501(b) authorizes the President to issue an emergency declaration for incidents involving federal primary responsibility. The authority to issue this type of declaration is rarely invoked. Examples of Section 501(b) declarations include the Coronavirus Disease 2019 (COVID-19) pandemic, the loss of the Space Shuttle Columbia (emergency declarations were issued for Louisiana and Texas), the 9/11 terrorist attacks on the Pentagon, and the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, OK.

⁸ The criteria used to determine whether to issue a declaration include a minimum amount of uninsured physical damage to buildings, machinery, inventory, homes, and other property. Generally, this minimum is at least 25 homes or businesses (or some combination of the two) that have sustained uninsured losses of 40% or more in any county or other smaller political subdivision of a state or U.S. possession. See 13 C.F.R. §123.3(3)(ii) and 13 C.F.R. §123.3(3)(iii).

⁹ 13 C.F.R. §123.3(4).

¹⁰ 15 U.S.C. §632(k)(1).

eligible for SBA disaster loans when the SBA Administrator issues an EIDL declaration.

7. The SBA Administrator issues a physical disaster declaration in a rural area (rural disaster declaration) upon request from the state governor or the chief executive of the Indian tribal government in which the rural area is located.¹¹ When the SBA Administrator issues this type of declaration, SBA disaster loans become available to eligible businesses, nonprofit organizations, and individuals and households.

Can Disaster Loans Be Used in Conjunction with Insurance or Other Types of Assistance?

Disaster loans may be used in conjunction with other types of assistance including insurance but only to the extent to which there is no duplication of assistance. Section 312 of the Stafford Act requires federal agencies providing disaster assistance to ensure that businesses and individuals do not receive disaster assistance for losses for which they have already been compensated. An individual receiving federal assistance for a major disaster is liable to the United States when the assistance duplicates benefits provided for the same purpose.

FEMA regulation 44 C.F.R. 206.191 establishes policies and procedural guidance to ensure uniformity in preventing duplication of benefits, including a “delivery sequence” of disaster assistance provided by volunteer organizations and certain federal agencies. According to the regulation, the agency or organization that is lower in the delivery sequence should not provide assistance that duplicates assistance provided by a higher-level agency or organization.

SBA regulation 13 C.F.R. 123.101(c) prohibits applicants from receiving a home disaster loan if their damaged property can be repaired or replaced with the proceeds of insurance, gifts, or other compensation. These amounts must either be deducted from the amount of the claimed losses or, if received after SBA has approved and disbursed a loan, must be paid to SBA as principal payments on their loans.

Can Loans Be Issued Before the Insurance Settlement?

SBA can approve and disburse a loan for the total replacement cost up to specified lending limits.¹² However, if there is a duplication of benefits after the insurance settles, those funds are applied to the balance of the disaster loan.

What Forms of Collateral Are Needed for Disaster Loans?

SBA will not require collateral to secure a business or home disaster loan of \$25,000 or less. In general, SBA will not decline a loan when inadequacy of collateral is the only unfavorable factor

¹¹ Rural area means any county or other political subdivision of a state, the District of Columbia, or a territory or possession of the United States that is designated as a rural area by the Bureau of the Census. The following conditions must be met for this type of declaration: (1) the President has declared a major disaster for the rural area, but has not authorized individual assistance; and (2) any home, small business concern, private nonprofit organization, or small agricultural cooperative in the rural area has incurred significant damage. Significant damage means uninsured losses of 40% or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower.

¹² Personal property loans provide up to \$40,000. Home Physical Disaster Loans provide up to \$200,000, and Business Physical Disaster Loans and EIDLs provide up to \$2 million.

in a disaster loan application and SBA is reasonably sure that the applicant can repay the loan. SBA may decline or cancel loans for applicants who refuse to pledge available collateral.

What Are SBA Loan Processing Times for Disaster Loans?

SBA uses approximate processing standards based on tiered levels of application volumes for all disaster loans: two to three weeks for less than 50,000 applications per year (level I); three to four weeks for 50,001-250,000 applications per year (level II); four-plus weeks for more than 250,000 applications per year (level III); and more than four-plus weeks for more than 500,000 applications per year (level IV).¹³

According to SBA, the percent of disaster loans processed according to the tiered standard performance goal was 100% in FY2010, 100% in FY2011, 95% in FY2012, 55% in FY2013, and 100% in FY2014. SBA noted that its lower performance in FY2013 was largely due to increased loan volumes following Hurricane Sandy. A July 2015 SBA Office of Inspector General study found that SBA's processing time for home disaster loans averaged 18.7 days and application processing times for business disaster loans averaged 43.3 days.¹⁴

Home Physical and Personal Property Disaster Loans

What Type of Loans Are Available to Individuals and Households?

Disaster loans provided to individuals and households in declared disaster areas fall into two categories: Personal Property Loans and Real Property Loans. A Personal Property Loan provides a creditworthy homeowner or renter located in a declared disaster area with up to \$40,000 to repair or replace personal property owned by the survivor. Real Property Loans provide creditworthy homeowners located in a declared disaster area with up to \$200,000 to repair or restore the homeowner's primary residence to its pre-disaster condition.¹⁵ However, the amount SBA will lend depends on the cost of repairing or replacing the home and/or personal property (minus insurance settlements or grant assistance).

What Can Personal Property Loans Be Used for?

Personal Property Loans cover only uninsured or underinsured property and primary residences in a declared disaster area. Personal Property Loans can be used to repair or replace clothing, furniture, cars, or appliances damaged or destroyed in the disaster. Eligibility of luxury items with functional use, such as antiques and rare artwork, is limited to the cost of an ordinary item meeting the same functional purpose.

¹³ U.S. Small Business Administration, *FY2016 Congressional Budget Justification and FY2014 Annual Performance Report*, p. 87, available at https://www.sba.gov/sites/default/files/files/1-FY_2016_CBJ_FY_2014_APR_508.pdf.

¹⁴ U.S. Small Business Administration, Office of Inspector General, *Hurricane Sandy Expedited Loan Processes*, Audit Report No. 15-13, July 13, 2015, p. 4, available at https://www.sba.gov/sites/default/files/oig/Audit_Report_15-13_Sandy_Expedited_Processes.pdf.

¹⁵ 13 C.F.R. §123.105(a)(2).

What Can Real Property Loans Be Used for?

Only uninsured or otherwise uncompensated disaster losses are eligible for loan assistance. The loans may not be used to upgrade a home or build additions to the home, unless the upgrade or addition is required by city or county building codes. Secondary homes or vacation properties are not eligible for Real Property Loans.¹⁶ Repair or replacement of landscaping and/or recreational facilities cannot exceed \$5,000. A homeowner may borrow funds to cover the cost of improvements to protect their property against future damage (e.g., retaining walls, sump pumps, etc.). In some cases, SBA loans can be used to refinance all or part of a previous mortgage when the applicant does not have credit available elsewhere, has suffered substantial disaster damage not covered by insurance, and intends to repair the damage. SBA considers refinancing when processing each application. In addition, loan recipients can use loan money to pay their insurance deductible.¹⁷

Can Real Property Loans Be Used for Mitigation?

A homeowner may borrow funds to cover the cost of improvements to protect their property against future damage (e.g., safe rooms or similar structures designed to protect occupants from natural disasters, retaining walls, sump pumps, etc.). Mitigation funds may not exceed 20% of the disaster damage, as verified by SBA, to a maximum of \$200,000 for home loans.¹⁸

What Are the Interest Rates and Terms for Personal Property Loans and Real Property Loans?

Interest rate ceilings are statutorily set at 8% per annum or 4% per annum if the applicant is unable to obtain credit elsewhere.¹⁹ Generally, borrowers pay equal monthly installments of principal and interest, beginning five months from the date of the loan. The loans can have maturities up to 30 years.

What Forms of Collateral Are Needed for Home Disaster Loans?

SBA will not require collateral to secure a physical disaster home loan of \$25,000 or less. In general, SBA will not decline a loan when inadequacy of collateral is the only unfavorable factor in a disaster loan application and SBA is reasonably sure that the applicant can repay the loan. SBA may decline or cancel loans for applicants who refuse to pledge available collateral.

¹⁶ Qualified rental properties may be eligible for assistance under SBA's business loan program.

¹⁷ U.S. Small Business Administration, *Standard Operating Procedure: Disaster Assistance Program*, 50 30 8, July 1, 2015, p. 96, at https://www.sba.gov/sites/default/files/sops/SOP_50_30_8_Final.pdf.

¹⁸ 13 C.F.R. §123.107.

¹⁹ SBA determines whether an applicant has credit available elsewhere.

Business Disaster Loans

What Type of Loans are Available to Businesses?

SBA offers loans to help businesses repair and replace damaged property and financial assistance to businesses that have suffered economic loss as a result of a disaster.²⁰ Disaster loans provided to businesses fall into two categories: Business Physical Disaster Loans and EIDLs.

What Types of Organizations Are Eligible for Business Physical Disaster Loans?

Any business, regardless of size (other than an agricultural enterprise),²¹ and private, nonprofit organizations located in a declared disaster area may be eligible for a Business Physical Disaster Loan.

What Can Business Physical Disaster Loans be Used For?

Business Physical Disaster Loans provide up to \$2 million to repair or replace damaged physical property including machinery, equipment, fixtures, inventory, and leasehold improvements that are not covered by insurance.²² Damaged vehicles normally used for recreational purposes may be repaired or replaced with SBA loan proceeds if the borrower can submit evidence that the vehicles were used for business purposes.

Can Business Physical Disaster Loans Be Used for Mitigation?

Businesses may utilize up to 20% of the verified loss amount for mitigation measures (e.g., grading or contouring of land, relocating or elevating utilities or mechanical equipment, building retaining walls, safe rooms or similar structures designed to protect occupants from natural disasters, or installing sewer backflow valves) in an effort to prevent loss should a similar disaster occur in the future.

What Are the Interest Rates and Terms for Business Physical Disaster Loans

Interest rates for Business Physical Disaster Loans cannot exceed 8% per annum or 4% per annum if the business cannot obtain credit elsewhere.²³ Borrowers generally pay equal monthly

²⁰ For more information about businesses disaster assistance, see CRS Report R47631, *Federal Disaster Assistance for Businesses: Summaries and Policy Options*, coordinated by Julie M. Lawhorn and Bruce R. Lindsay.

²¹ 13 C.F.R. §123.201(a). An agricultural enterprise is a business “primarily engaged in the production of food and fiber, ranching and raising of livestock, aquaculture and all other farming and agriculture-related industries.” The U.S. Department of Agriculture (USDA) offers several programs to help farmers recover financially from natural disasters, including drought and floods. See CRS Report RS21212, *Agricultural Disaster Assistance*, coordinated by Megan Stubbs, for more information.

²² Leasehold is a fixed asset and gives the right to hold or use property for a fixed period of time at a given price, without transfer of ownership, on the basis of a lease contract. SBA may waive the \$2 million cap if the business is a main source of employment. See 13 C.F.R. §123.202.

²³ 13 C.F.R. §123.203(a).

installments of principal and interest starting five months from the date of the loan. Business Physical Disaster Loans can have maturities up to 30 years.

What can Economic Injury Disaster Loans be Used For

EIDLs provide up to \$2 million to help meet financial obligations and operating expenses that could have been met had the disaster not occurred. Loan proceeds can only be used for working capital necessary to enable the business or organization to alleviate the specific economic injury and to resume normal operations. Loan amounts for EIDLs are based on actual economic injury and financial needs, regardless of whether the business suffered any property damage.

What Businesses Are Eligible for Economic Injury Disaster Loans?

EIDLs are available only to businesses that are located in a declared disaster area, have suffered substantial economic injury, are unable to obtain credit elsewhere, and are defined as small by SBA size regulations.²⁴ Size standards vary according to a variety of factors including industry type, average firm size, and start-up costs and entry barriers.²⁵ Small agricultural cooperatives and most private and nonprofit organizations that have suffered substantial economic injury as the result of a declared disaster are also eligible for EIDLs.

Can a Business Secure an EIDL and a Business Physical Disaster Loan?

Businesses can secure both an EIDL and a Business Physical Disaster loan to rebuild, repair, and recover from economic loss. The loan amount cannot exceed \$2 million.

What Are the Interest Rates and Terms for EIDLs?

Interest rate ceilings are statutorily set at 4% per annum or less and loans can have maturities up to 30 years.

What Forms of Collateral are Needed for Business Disaster Loans?

Collateral requirements vary by declaration type. In presidential declarations, Business Physical Disaster Loans over \$25,000 must be secured to the extent possible. For agency declarations, Business Physical Disaster Loans over \$25,000 must be secured to the extent possible.

The SBA administrator is prohibited from requiring businesses to use their personal residence as collateral for loans under \$200,000 if the applicant has other collateral, including assets related to the operation of the business that is sufficient to cover the value of the loan.

SBA will not require collateral to secure an EIDL of \$25,000 or less. All EIDL loans over \$25,000 must be secured to the extent possible. SBA takes real estate as collateral when it is available. SBA will not decline a loan for lack of collateral. However, the applicant is required to pledge by what they have available as collateral.

²⁴ See 13 C.F.R. §123.300 for eligibility requirements.

²⁵ For further analysis on SBA business size standards, see CRS Report R40860, *Small Business Size Standards: A Historical Analysis of Contemporary Issues*, by Robert Jay Dilger.

What Are the Application Deadlines for Disaster Loans?

Applicants have 60 days beginning the day after the date of the declaration to apply for SBA home and business physical disaster loans. Businesses have nine months beginning the day after the date of the declaration to apply for SBA economic injury disaster loans (EIDLs).

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