

## **CARES Act's Emergency Resources for Farm Businesses: Paycheck Protection Loan Program<sup>1</sup>.**

The recent CARES Act provided additional emergency funding through Small Business Administration (SBA) for businesses who are facing losses due to COVID-19. If you are a farm business, the most important program to be aware of right now is the Paycheck Protection Loan Program, which was authorized in the CARES Act. Farms that meet SBA small business thresholds are eligible to apply for this low interest, forgivable loan program. Please note that SBA's definition of a small business and USDA's definition of a small farm are NOT the same and you are held to the much more generous SBA standard (generally fewer than 500 employees) for this program.

Paycheck Protection Loans will be available starting on April 3, 2020 to cover payroll costs, utilities, mortgage interest or rent. The interest rate on the Paycheck Protection Loan is .5%, with a maturity of 2 years. The first payment due is delayed for 6 months from origination of the loan. For many businesses this loan could be a very affordable way of accessing working capital this year by freeing up the cash you have on hand for other purposes.

Paycheck Protection Loans will be made by any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. If you have a relationship with a bank, you can check to see if they are approved as a lender by SBA or are participating in this program. The loans require no collateral, no personal guarantees, and no borrower or lender fees payable to SBA and the loans are 100% guaranteed by the US Government. The information about the program is <https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp>.

The actual amount you are eligible to receive for a loan will be determined by a formula based on your average monthly Payroll Costs during the 12-month period before the loan is made multiplied by 2.5<sup>2</sup>. Paycheck Protection Loans are subject to a \$10 million cap.

Besides the low interest rate, the most attractive part of the Paycheck Protection Loan Program is loan forgiveness. Borrowers may apply to their lender for forgiveness of Paycheck Protection Loans. The amount that may be forgiven will be equal to amounts from the loan used by the borrower during the eight-week period beginning on the date the loan is initially funded for the following uses:

- payroll costs,
- mortgage interest payments,
- rent payments, and
- utility payments.

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<sup>2</sup> For purposes of calculating "Average Monthly Payroll", most Applicants will use the average monthly payroll for 2019, excluding costs over \$100,000 on an annualized basis for each employee. For seasonal businesses, the Applicant may elect to instead use average monthly payroll for the time period between February 15, 2019 and June 30, 2019, excluding costs over \$100,000 on an annualized basis for each employee. For new businesses, average monthly payroll may be calculated using the time period from January 1, 2020 to February 29, 2020, excluding costs over \$100,000 on an annualized basis for each employee.

The amount forgiven may not exceed the principal amount of the loan. SBA anticipates that the forgivable amount of the loan that is used for non-payroll costs will be limited to 25% of the total amount forgiven. So for a \$10,000 loan only \$2,500 of non-payroll costs could be forgiven. This is because the primary purpose of the program is to help businesses afford to keep workers employed. You can only apply for this loan once, so it would make sense, given the low interest rate, to make sure that you apply for the amount you need to maintain liquidity and keep your business viable – not just take advantage of the grant-portion of the program.

Eligible payroll costs that can be paid for by the loan include:

- salary, wage, commission or similar compensation (subject to a limit of \$100,000 per person in wages paid per year or for payments to any independent contractor),
- a cash tips or equivalent,
- payment for vacation or parental, family, medical or sick leave,
- allowance for dismissal or separation, and
- payments for group healthcare benefits, retirement benefits, and state and local taxes assessed on employee compensation.

Payroll costs that can be covered by the loan do not include income tax withholding for wages, any compensation to any employee whose principal residence is not in the United States, and qualified sick leave wages or qualified family leave wages for which a credit is allowed under the Families First Coronavirus Response Act. The limitation on employees whose principal residence is not in the US would likely restrict the use of these funds for H2A wages. The rules for this program have not been written yet so that could change.

Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease. Borrowers that rehire employees will not be penalized for having a reduced payroll at the time of the loan. Specifically, the amount of loan forgiveness will not be reduced as a result of a reduction in employees or in wages and salaries that occurred between February 15, 2020 and 30 days after the enactment of the CARES Act, if the reduction is reversed by June 30, 2020.

Any amounts forgiven under a Paycheck Protection Loan will be excluded from income for tax purposes. However, taking advantage of forgiveness under the Paycheck Protection Loan Program may disqualify an employer from the payroll tax deferral benefit under the CARES Act, and receipt of a Paycheck Protection Loan is an alternative to the wage credit available under the CARES Act for businesses experiencing a closure related to COVID-19.

Businesses that wish to obtain a Paycheck Protection Loan will need to confirm that they are a small business or other eligible recipient, use the proceeds for only authorized purposes and, assuming they wish to take advantage of loan forgiveness, determine how much of the Paycheck Protection Loan will be forgivable. SBA has made a sample application form available so that you can see what is likely to be asked, <https://www.sba.gov/document/sba-form--paycheck-protection-program-ppp-sample-application-form> but this is not the final form as the program is still in development as of (4/2/2020).

It is also important to know that new programs are being developed at warp speed – this information may be dated by the time you read this! So, if this program is not a good fit for your CORVID-19 losses,

there will be other programs or rule changes soon, and you should also let your local elected officials and industry groups know what your business needs are. Also keep in touch with your CCE contacts, lender, or other industry groups you belong to for updates. The Cornell EDEN website is the hub of information for CORVID-19 issues and resources <https://eden.cce.cornell.edu/coronavirus-response/>. The Cornell Ag Workforce Journal <http://agworkforce.cals.cornell.edu/> is a great resource for updates on labor management issues and programs and policies related to ag workforce issues and CORVID-19 and the Cornell Small Farms Program is keeping a list of resources for farms impacted by CORVID-19 <https://smallfarms.cornell.edu/resources/farm-resilience/>.