CONGRESSMAN FRANK LUCAS

proudly representing Oklahoma's Third District

Frequently Asked Questions- Ag Producers & the Paycheck Protection Program

On March 27th, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This package appropriated $349 billion for the Paycheck Protection Program (PPP).

Many Oklahoma businesses have been forced to temporarily close as America responds to the coronavirus pandemic.

The Paycheck Protection Program prioritizes millions of Americans employed by small businesses by authorizing up to $349 billion toward job retention and certain other expenses.

Small businesses and eligible nonprofit organizations, Veterans organizations, and Tribal businesses described in the Small Business Act, as well as individuals who are self-employed or are independent contractors, are eligible if they also meet program size standards.

Agricultural producers, farmers, and ranchers as well as small agriculture cooperatives may also receive PPP loans.

Paycheck Protection Program

The Paycheck Protection Program provides small businesses with funds to pay up to 8 weeks of payroll costs including benefits. Funds can be used to pay interest on mortgages, rent, and utilities.

Funds are provided in the form of loans that will be fully forgiven when used for payroll costs, interest on mortgages, rent, and utilities (due to likely high subscription, at least 75% of the forgiven amount must have been used for payroll).

Loan payments will also be deferred for 6 months. No collateral or personal guarantees are required.

You can apply through 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. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating in the program.

Q: Are agricultural producers, farmers, and ranchers eligible for the Small Business Administration's Paycheck Protection Program (PPP)?

A: Agricultural producers, farmers, and ranchers with 500 or fewer employees whose principal place of residence is in the United States are eligible.

Farms are eligible if: (i) the farm has 500 or less employees, **OR** (ii) it fits within the revenue-based sized standard, which is on average annual receipts of $1M.

Additionally, farms can qualify for PPP if it meets SBA's "alternative size standard." The "alternative size standard" is currently: (1) a maximum net worth of the business not more than $15 million, **AND** (2) the average net income Federal income taxes of the business for the two full fiscal years before the date of the application be not more than $5 million.

Q: Are agricultural and other forms of cooperatives eligible for PPP?

A: As long as other eligibility requirements are met, small agricultural cooperatives may receive PPP loans. Other forms of cooperatives may be eligible provided they comply with all other Loan Program Requirements (as defined in 13 CFR 120.10).

Q: Do H-2A or H-2B workers on my payroll count towards my eligibility and total possible loan amount?

A: Only employees with a principal place of residence in the U.S. count toward eligibility and calculation of the PPP loan amount.

Q: How do sole proprietor farmers provide accurate documentation regarding payroll, when they may not take a traditional salary?

A: SBA requires sole proprietors, independent contractors, and other eligible self-employed individuals to provide documentation to its lender that the business was in operation as of February 15, 2020. This documentation may include payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship. For borrowers that do not have any such documentation, the borrower must provide other supporting documentation to its lender, such as bank records, sufficient to demonstrate the qualifying payroll amount.

Documentation options for payroll tax filings include the following:

IRS Form 941 (quarterly wages); IRS Form 944 (calendar year wages); State income, payroll and unemployment insurance filings; QuickBooks; bank repository accounts; and/or internally generated profit and loss statements. However:

- Nonprofit organizations must include IRS Form 990;
- Sole proprietors must include IRS Form 1040 Schedule C;
- Any entity that filed IRS Form 1099-MISC must include this form;
- Seasonal employers must document the period beginning February 15, 2019 through June 30, 2019

More extensive FAQs can be found at the Treasury Department's CARES Act website (PDF, 50 KB).