

April 1, 2020

Jovita Carranza  
Administrator  
U.S. Small Business Administration  
409 3<sup>rd</sup> Street, SW  
Washington, DC 20416

Dear Administrator Carranza,

We are writing today to ask that the U.S. Small Business Administration (SBA) issue guidance clarifying that agricultural businesses are eligible to participate in the Economic Injury Disaster Loan (EIDL) program as modified by Congress in the CARES Act.

Agricultural producers and businesses are critical elements of this nation's economy and food system. Prior to COVID-19, farmers and ranchers had already experienced a drastic 24-percent decline in net farm income from highs experienced just six years ago. With the further downturn in the economy, agricultural businesses are at risk of closure and may be required to lay off employees.

Earlier this week, the SBA posted a new EIDL website that states applicants must certify that they are "not an agricultural enterprise (e.g., farm), other than an aquaculture enterprise, agricultural cooperative, or nursery."

The notice on the website apparently is inconsistent with congressional intent. While agricultural enterprises had not previously been able to participate in the underlying EIDL program, there is every reason to believe Congress intended for agricultural producers to be able to participate during the COVID-19 emergency. The CARES Act does not exclude agricultural producers from this program and clearly states that all businesses with not more than 500 employees can participate in this program.

Section 1110(a)(2) of the CARES Act defines "eligible entity" as:

- (A) a business with not more than 500 employees;
- (B) any individual who operates under a sole proprietorship, with or without employees, or as an independent contractor;
- (C) a cooperative with not more than 500 employees;
- (D) an ESOP (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) with not more than 500 employees; or
- (E) a tribal small business concern, as described in section 31(b)(2)(C) of the Small Business Act (15 U.S.C. 657a(b)(2)(C)), with not more than 500 employees.

Section 1110 of the CARES Act continues by stating that, from January 31, 2020 to December 31, 2020 "in addition to small business concerns, private nonprofit organizations, and small agricultural cooperatives, an eligible entity shall be eligible for a loan made under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2))."

Since the term “eligible entity” under the CARES Act includes “a business with not more than 500 employees” and since Congress did not explicitly exclude agricultural businesses from this definition, agricultural businesses can qualify for EIDL loans during 2020 to respond to the economic downturn caused by COVID-19 notwithstanding the traditional exclusion of agricultural businesses from the EIDL program.

Many agricultural producers need access to this critical source of financing to help preserve their businesses and avoid further disruptions to our economy and food systems.

We believe that the clear statutory language of the CARES Act indicates that agricultural businesses can participate in the emergency EIDL program as was the intent of Congress. Accordingly, we ask that the SBA immediately modify the website listed above and quickly issue guidance clarifying that agricultural enterprises can participate in the EIDL program in the context of the on-going COVID-19 disaster.

Thank you for your consideration of this issue that is so critical to America’s agricultural producers.

Sincerely,

Agricultural Retailers Association  
Amcot  
American Coalition for Ethanol  
American Farm Bureau Federation  
American Soybean Association  
AmericanHort  
Edge Dairy Cooperative  
Farm Credit Council  
Growth Energy  
Iowa Renewable Fuels Association  
KCoe Isom, LLP  
National Association of Wheat Growers  
National Barley Growers Association  
National Cattlemen’s Beef Association  
National Corn Growers Association  
National Cotton Council

National Council of Agricultural Employers  
National Council of Farm Cooperatives  
National Milk Producers Federation  
National Onion Association  
National Pork Producers Council  
National Potato Council  
National Sunflower Association  
National Turkey Federation  
Renew Kansas Biofuels Association  
Renewable Fuels Nebraska  
U.S. Apple Association  
U.S. Canola Association  
U.S. Dry Bean Council  
U.S. Rice Producers Association  
USA Dry Pea & Lentil Council

Cc: Sonny Perdue  
Secretary  
U.S. Department of Agriculture  
1400 Independence Ave, SW  
Washington, DC 20250-0110

# SMALL BUSINESS 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 also be used to pay interest on mortgages, rent, and utilities.

## Fully Forgiven

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 six months. No collateral or personal guarantees are required. Neither the government nor lenders will charge small businesses any fees.

## Must Keep Employees on the Payroll—or Rehire Quickly

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.

## All Small Businesses Eligible

Small businesses with 500 or fewer employees—including nonprofits, veterans organizations, tribal concerns, self-employed individuals, sole proprietorships, and independent contractors—are eligible. Businesses with more than 500 employees are eligible in certain industries.

## When to Apply

Starting April 3, 2020, small businesses and sole proprietorships can apply. Starting April 10, 2020, independent contractors and self-employed individuals can apply. We encourage you to apply as quickly as you can because there is a funding cap.

## How to Apply

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. All loans will have the same terms regardless of lender or borrower. A list of participating lenders as well as additional information and full terms can be found at [www.sba.gov](http://www.sba.gov).

**The Paycheck Protection Program is implemented by the Small Business Administration with support from the Department of the Treasury. Lenders should also visit [www.sba.gov](http://www.sba.gov) or [www.coronavirus.gov](http://www.coronavirus.gov) for more information.**