



Extension

UNIVERSITY OF WISCONSIN-MADISON

Updated on April 25, 2020

The Paycheck Protection Program and Health Care Enhancement Act provides additional funds for small businesses starting April 27.

The Paycheck Protection Program (PPP) provides potentially forgivable loans to small businesses to cover up to two months of payroll costs and/or self-employment income during the COVID-19 crisis. Farmers are eligible for PPP loans through the Small Business Administration (SBA). Farmers must have fewer than 500 employees.

This act, signed into law on April 24 provides an additional \$310 billion to the PPP, with \$60 billion of that money going to loans made by smaller lenders.

The PPP will reopen for approved lenders at 9:30 am (Central Time) on Monday, April 27.

These loans are facilitated through lending institutions with established relationships with the SBA. Here is a list of [SBA approved lenders organized by state as of April 23, 2020](#) (Wisconsin lenders start on page 539). Farmers can also work with the Farm Credit Service organization that services their geographic area. Therefore, after reviewing the eligibility criteria below, **the first recommendation is for farmers to call their current lender(s) to see if they have that SBA relationship and ask if they are ready to accept PPP applications.** The lender may have their own restrictions, application form and documentation requirements.

Who is eligible?

Small businesses, including farms, who have fewer than 500 employees (those receiving W2s in the previous year). Independent contractors/self-employed farmers and small businesses are also eligible to make their own applications to this program. The guidance for self-employed specifically references Schedule C filers, but it is reasonable to apply the same general rules to a Schedule F filer.

Partners in partnerships or members of an LLC taxed as a partnership should submit one PPP application for the partnership/LLC. The self-employment income of general active partners or LLC members/managers can be reported as payroll costs (up to \$100,000 annual salary basis) filed on behalf of the partnership or LLC.

What costs are covered?

- Payroll costs, including benefits, such as paid leave, health care benefits, and state and local taxes. The portion of federal taxes that are normally taken from the employee's gross wages can be included in the calculations and used to pay their portion of federal employment tax. The employer's share of payroll taxes should be excluded from the calculations. Housing stipends or allowances are considered part of payroll and subject to the \$100,000 per employee limits.
- Interest on mortgage obligations, incurred before February 15, 2020.
- Rent, under lease agreements in force before February 15, 2020.
- Utilities, for which service began before February 15, 2020.

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April 25, 2020

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The PPP cannot cover the costs of paying independent contractors (those who get 1099s instead of W2s). Independent contractors and other self-employed individuals, including farmers, should apply for their own PPP loans. The PPP loan cannot cover payroll for those employees whose principal address is not within the United States. See IRS regulations (26 CFR § 1.121-1(b)(2)) for additional guidance on determining an employee's principal place of residence.

How do seasonal businesses determine average monthly payroll?

In evaluating an applicant's eligibility, a lender can consider whether the business was in operation on Feb 15, 2020 OR for an 8-week period between Feb. 15 and June 30, 2020. The seasonal business can use the 8-week period preceding June 30 in the calculation of monthly payroll.

What are the amount of the loans?

The amount of the loans are 2.5 times the amount of your average monthly payroll costs from 2019, capped at \$10 million. For specific direction on calculating the loan, read the Iowa State University's [Center for Agricultural Law and Taxation blog on guidance on PPP Loans](#)

Can a farmer include their own lost income in the loan?

Farmers can include their own lost income if their 2019 taxes indicate a net income. Current official SBA guidance does not specifically give direction for loans that have self-employment income reported on the Schedule F instead of a Schedule C. However, SBA district offices have instructed lenders that the Schedule F, line 34 (instead of Schedule C, line 31) can be used for documenting net income.

If your farm/business had a zero or negative net income in 2019, the business owner(s) cannot request funds for themselves through the PPP. They can however, still request funds to cover their payroll costs for two months. **Businesses with no employees and zero or negative net income are ineligible for a PPP loan.** Farms in this category will have to rely on existing and new FSA programs and/or loans based on their equity. We are still waiting for information on the Coronavirus Food Assistance Program, the new USDA program that will make direct payments to farms in response to COVID-19. Farmers may be eligible for Pandemic Unemployment Assistance (PUA) if they are unable to work because they or family/household member was in some way affected by COVID-19; however, loss of profits does not make a farmer eligible for PUA. For more information on PUA, go to the [Wisconsin Workforce Development's website on PUA](#).

Are these truly forgivable loans?

PPP loans will be forgiven as long as:

- The loan is used to cover payroll costs, and mortgage interest, rent, and utility costs over the 8 week period after the loan is made; and
- Employee and compensation levels are maintained.
- For a loan to be completely forgiven, no more that 25% of the loan can be used for anything other than payroll. For example, if you use 30% of the loan for mortgage interest, rent and/or utilities, you are required to pay back 5% of the total loan because that is the amount over the 25% you spent on things other than payroll costs.

The applicant is required to write a letter to the lender that documents the number of Full-Time Equivalent (FTE) employees and their pay rates, plus payments to mortgage interest, lease payments and utility payments that were paid from the loan proceeds. An FTE is 40 hours/week. It is recommended that you use the FTE number in your application rather than just the number of employees so that it is the same number that is required in the request-for-forgiveness-letter.

Note: A forgiven loan is taxable income. However, the items paid from this loan are all expenses that can be deducted as the cost of business, so they should cancel each other out.

If someone is required to pay back a portion of the loan, what are the loan terms?

- Interest at 1%, accrues immediately
- Payments deferred for six months
- Loan due in two years.

How do farmers apply?

- If a farm has a PPP application in from the first time, they should contact their lender to determine if they need to re-apply or to change/update their existing application.
- Call your current lender to see if they are making PPP loans. If they are not or you don't have an established relationship with a lender, you can contact the Farm Credit Service lender for your geographic area. Here is a list of [SBA approved lenders organized by state as of April 23, 2020](#) (Wisconsin lenders start on page 539). Get their application and supporting document list.

You will need to provide your lender with payroll documentation such as payroll processor records or payroll tax filings. Independent contractors will have to provide their 1099-MISC forms.

Is there anything else I should know?

- This additional \$310 billion is available starting at 9:30 on Monday, April 27. It is distributed on a first come, first served basis. **Call your lender today!**
- As of April 25, there is nothing indicating that receiving SBA loans will affect payments from the Coronavirus Food Assistance Program, the new USDA program that will make direct payments to farmers through the FSA in response to COVID-19.
- A borrower can generally obtain both a PPP loan and an Economic Injury Disaster Loan (EIDL program); however, they can't be used for the same purposes. Here is more information on the EIDL program (see the article: ***Economic Injury Disaster Loans now open to agricultural enterprises***)
- If an owner with 20% or more ownership has a felony within the last five years the business is ineligible.
- Medical/recreational marijuana is not an eligible enterprise; hemp is eligible in state where it is a legal crop, including Wisconsin.

Here are links for more information from the U.S. Treasury:

[General Information about the Paycheck Protection Program](#)

Here is the [Paycheck Protection Program Borrower Application Form to see what type of information will be needed](#). Please note, your lender may require additional forms.

The Small Business Administration regularly updates its [PPP FAQ site](#).

Other resources: [Iowa State University's Center for Agricultural Law and Taxation](#) has information on the [Paycheck Protection Program](#)

This factsheet was developed from U.S. Treasury resources, Iowa State University's Center for Agricultural Law and Taxation along with information and direction communication with Rachel Armstrong, Founder and Executive Director of Farm Commons ([Farmcommons.org](#)).