

# COVID-19 RELATED LEGISLATION

## LABOR, FAMILIES FIRST ACT, CARES ACT



---

Adam J. Kantrovich, Ph.D.  
Clemson University Extension



Mr. Stan Moore  
Michigan State University

## Discussion Topics

- Labor Update and Challenges – Stan Moore, Michigan State Univ.
- COVID-19 Related Legislation
  - Background – Stan Moore
  - Families First Coronavirus Response Act (FFCRA) aka Families First Act – Stan Moore, Michigan State Univ.
  - Coronavirus Aid, Relief, and Economic Security (CARES) ACT – Adam Kantrovich, Clemson University
    - How much money went to ag programs
    - Paycheck Protection Program (PPP)
    - Emergency Injury Disaster Loan (EIDL)
    - Challenges, Remaining Questions, Last Word on PPP
    - Economic Impact Payment (If we have time left)
- Contacts
- Resources

DISCLAIMER

*The information in this publication/presentation is provided only for educational purposes and to inform the reader of relevant topics. This is not to be perceived or utilized as formal tax or legal advice. **It is up to the reader to seek the necessary and appropriate tax and legal professionals that specialize in these areas for specific guidance.***

# COVID LEGISLATION AND LABOR CHALLENGES



# COVID-19 Legislation General Overview

- Coronavirus Preparedness and Response Supplemental Appropriations Act, March 6, 2020
  - \$8.3 billion for treatment and prevention, Emergency Small Business Loan subsidies; \$20 million for SBA Emergency Loans
- Families First Coronavirus Response Act (FFCRA), March 18, 2020 Effective April 1, 2020
  - Min. of \$192 billion – in part developed requirements for leave caused by COVID-19 which may effect many farms and ranches
- Coronavirus Aid, Relief, and Economic Security Act (CARES), March 27, 2020 Effective ASAP
  - Over \$2 trillion in economic stimulus through loans, programs and subsidization

# Updates and Current Challenges with Guest Worker Labor

Mr. Stan Moore, Michigan State University Extension



# General Challenges

- *H-2A program used for over 200,000 seasonal agricultural workers per year*
  - Farmworkers considered “essential”
- Travel restrictions and health concerns potentially reducing H-2A workers
- Some employers unable to meet  $\frac{3}{4}$  **guarantee**
- Paid work leave requirement for COVID-19 (Families First)
- Increasing housing and work safety concerns
- State workforce agency(ies) denying request for workers because there are enough U.S. residents to take the job



# Worker Visas

- H-2A visa applications being processed by consulates despite halt of routine services
- Normally, returning workers (within 12 months) *may* be processed without an interview
- Secretary Pompeo announced:
  - **Interview waivers** allowed for first-time applicants and visas that have expired within 48 months
  - USDA and DOL facilitating **worker transfers**
  - 3-year maximum stay extended temporarily



# Housing/Work Safety

- Potential safety concerns
  - Social distancing measures for housing and work
  - Additional safety equipment for workers
- DOL relaxing some regulations if supporting worker safety
  - Permitting workers to perform **limited duties** outside job order
  - Permitting work on **other worksites**
- Property housing inspections still required but may be temporarily waived in emergency situations



Dr. Adam J. Kantrovich & Mr. Stan Moore

---

# **COVID-19 RELATED LEGISLATION**

# **Families First Coronavirus Response Act (FFCRA) aka the Families First Act**



# Families First Act

- Provides for employers of specified size to cover the cost of an employee's leave due to COVID-19.
- What may effect Farms and Ranches
  - Paid Sick Leave
  - Paid Family Leave
  - Notice Requirements
- Includes all businesses with 500 or Less employees
  - You count the number of employees (head count) at the time leave is requested by the employee
- There are no exceptions and this includes H-2A & H-2B, seasonal, etc. being counted to determine the size of the employer.
- Covers leave taken between 4/1/20 and 12/31/20
- The employer does not have to pay for leave if the company is closed or the workers are furloughed (Due to lack of business or mandatory ordered shut-down)





# Families First Act: Full-Time Employees

- Paid Sick Leave for COVID-19 Related Reasons
  - 2-weeks (80-hours)
    - If the worker is quarantined by a doctor or by government order
    - Has COVID-19 symptoms and is seeking medical diagnosis
    - \$511/day maximum and \$5,110 maximum/per worker for the 2-weeks (10 days)
  - 2-weeks (2/3rds regular rate of pay ; 2-Weeks (80-hours) maximum per person of \$200/day or \$2,000 total
    - If the worker is required to care for an individual under quarantine. This does not need to be a family member.
- Family Leave
  - At 2/3rds regular rate of pay; 2-Weeks (80-hours) maximum per person of \$200/day or \$2,000 total for the two weeks (10 days).
    - To care for a child under 18 years of age due to school closure
  - Expanded Family and Medical Leave: 10-Weeks maximum per person of \$10,000
    - Employee must have worked at least 30 days of the last 60 days that they have been on the payroll
    - Up to an additional 10-weeks to care for a son/daughter under the age of 18 whose school or daycare has closed.
- 12-weeks total is possible (2-weeks to care for an individual & 10-weeks of Long Term Family Leave)



# Families First Act: Part-Time Employees

- The below is applied for part-time employees for the 2-week sick leave or for the Family Leave
  - Leave is to be based on the employee's average number of hours over a 2-week period
  - If the employee works a variable hour schedule than the average is based on a 6-month average to determine the daily hours
    - If the employee has been working for less than 6-months than use the agreed upon expected schedule of hours at the time-of-hire



# Families First Misc.

- Rate of pay does not include:
  - Anything over 40 hours a week
  - Over-time
  - Bonuses, tips, etc.
- Leave taken for all non-related COVID-19 purposes is not covered under the Families First Act and will follow normal Family Medical and Leave Act (FMLA) requirements.
  - The Families First Act only makes changes and requirements as it relates to specified COVID-19 related events.
- State rules may preempt federal regulations for FMLA or general leave, so know what your state requirements are
- Cannot fire a worker for using leave or making a complaint



# Families First – Fewer than 50 Employees

- Employers with fewer than 50 employees *may* be exempt from having to follow the Closed School long-term family leave requirement but only **IF**:
  - Providing the leave will cause the employers expenses to exceed revenues and the business to close
  - The loss of workers will create a "substantial risk to the financial health or operational capabilities" of the business.
  - The worker is needed for the business to maintain minimal capacity for operations to continue because there are not enough workers that are "able, willing, or qualified" to cover the worker requesting leave.
- Employers with fewer than 50 employees still need to comply with all other parts of the law/legislation.



# Families First – Who Pays for this

- The employer will need to cover the cost initially. The Federal Government may cover the cost in the end.
  - Advance on Refundable Tax Credit
  - PPP
- This will work as an Advance on a Refundable Tax Credit
  - Employers will hold back dollar for dollar the amount used from the employer share of Federal Insurance Contributions Act (FICA) across the entire payroll to cover the cost of the leave.
  - If the employer share of FICA does not cover the cost of the paid leave, The employer can file a form IRS 7200 and get it to the IRS. Payments are expected to be paid to the employers with a 1-2 week turn around.
- IF YOU MAKE USE OF THIS TO PAY FOR THE LEAVE, IT MAY EFFECT YOUR ELIGIBILITY FOR THE **PAYCHECK PROTECTION PROGRAM!**



# Notification

- The employer is responsible for providing notice of an employees rights under the Families First Act.
  - Signs must be placed and visible in the language(s) of employees.
  - You may provide emails to those that may be telecommuting or working from home.



Adam J. Kantrovich, Clemson University

---

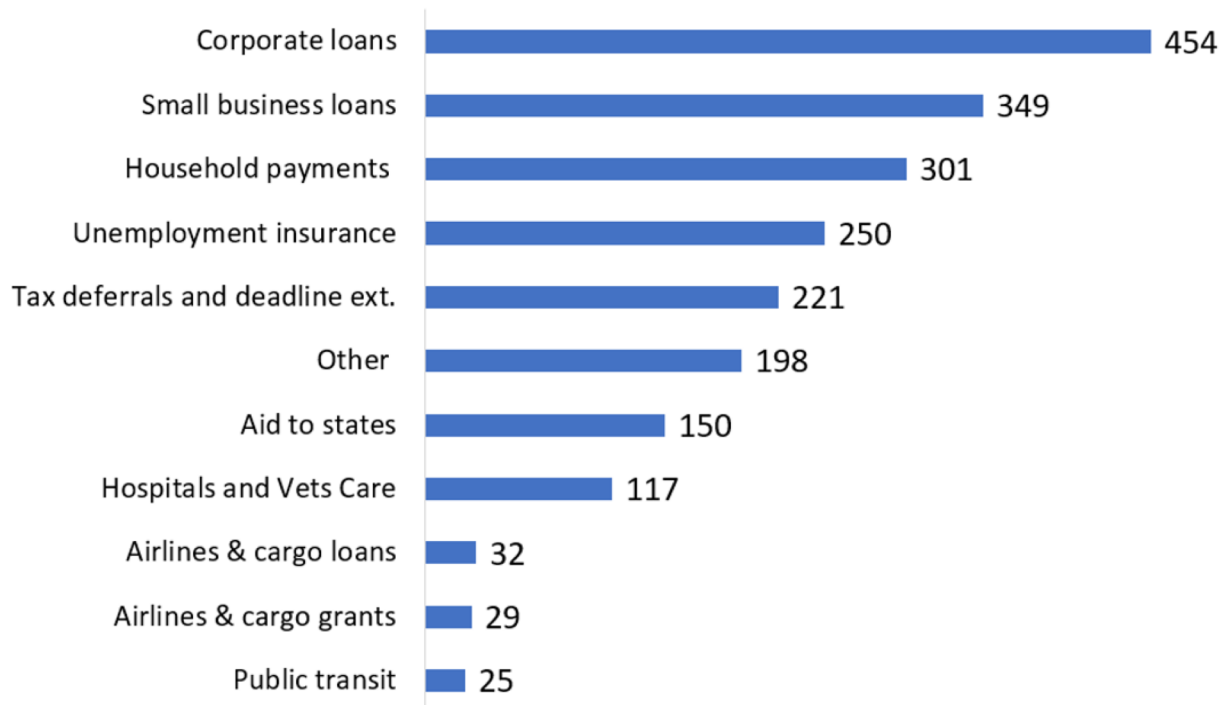
# **CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT**

# **CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT**

Over \$2 trillion economic stimulus package to address the economic fallout of COVID-19. At the time it was the largest in U.S. history.



**CARES Act: Relief Amounts (\$ Billions)**



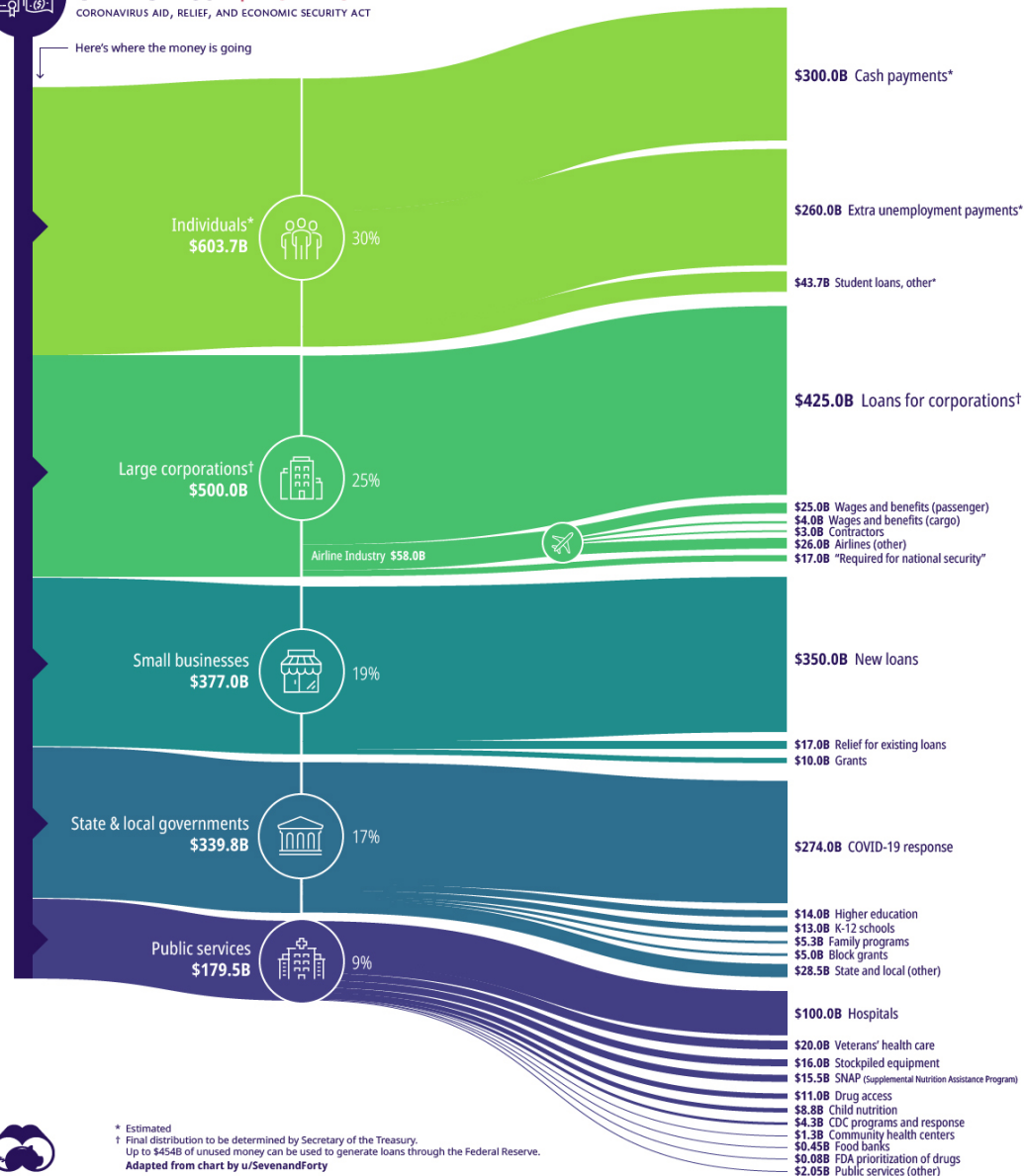
Source: Wall St. Journal



## CARES Act \$2 trillion

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT

Here's where the money is going



Source: Visual Capitalist

<https://www.visualcapitalist.com/the-anatomy-of-the-2-trillion-covid-19-stimulus-bill/>

Developed by Dr. Nathan Smith, Clemson University, April 2020



\* Estimated  
† Final distribution to be determined by Secretary of the Treasury.  
Up to \$454B of unused money can be used to generate loans through the Federal Reserve.  
Adapted from chart by u/SevenandForty

## CARES Act Agricultural Related Provisions

- \$9.5 Billion to U.S. Department of Agriculture (USDA) Secretary of Agriculture for producers who have been impacted by COVID-19. Includes specialty crop growers, livestock, and dairy farmers.
- \$14 Billion to the Commodity Credit Corporation (CCC). MFP like payments?
- \$349 Billion for Small Business Association (SBA) loans.
- \$15.8 Billion for the Supplemental Nutrition Program (SNAP).
- \$8.8 Billion for child nutrition program.
- \$100 Million in ReConnect grants to expand access to broadband in rural America.
- \$55 Million for inspections and protection against invasive pests and animal disease.
- \$33 Million for food safety inspectors at meat processing plants.

What we know now.

---

# **USDA ASSISTANCE FOR FARMERS CORONAVIRUS FOOD ASSISTANCE PROGRAM (CFAP)**

## USDA \$33 Billion

- Initial \$19 billion
  - \$3 billion to be used to purchase ag products for distribution
  - \$16 billion which came from \$9.5 billion from the emergency program in the CARES Act and \$6.5 billion in Credit Commodity Corp (CCC) funding.
- \$14 billion through the CCC secured through the CARES Act expected to be utilized in July to farmers and ranchers

## \$3 Billion to Purchase and Distribution

- USDA will purchase products and be distributing them to food banks, and other groups that provide food for those in need. The USDA will begin the purchasing with:
  - \$100 million per month in a variety of dairy products
  - \$100 million per month in meat products
  - \$100 million per month in fresh fruit and vegetables.
- USDA will also use additional funds for similar purposes:
  - \$873 million (sec. 32 funding) to purchase and distribute ag products to food banks
  - Families First and CARES Acts funding:
    - \$850 million for foodbank administrative costs and USDA food purchases with \$600 million going directly for food purchases

## COVID-19 Related Direct Payments

- \$16 billion in direct support to producers on actual losses for the 2020 marketing year caused by COVID-19.
  - \$9.6 billion for livestock producers
    - \$5.1 billion for cattle
    - \$2.9 billion for dairy
    - \$1.6 billion for hogs
  - \$3.9 billion for row crop producers
  - \$2.1 billion for specialty crop producers
  - \$500 million for other crops

# Eligibility and Direct Payment Calculations

- Crop Qualification for Eligibility to Receive a Payment
  - Crop must experience a 5% price decrease between January and April of 2020
- Price losses that occurred between January 1, 2020 and April 15, 2020
  - Part 1: Producers will be compensated for 85% of the price loss.
  - Part 2: Payment will cover 30% of the expected losses for the next two quarters the begin following April 15, 2020
- USDA Expectation's:
  - Sign-up in early May
  - Checks going out in late May or early June



# Direct Payment Limitations

- Payment Limits:
  - \$125,000 per commodity
  - Overall total limit of \$250,000 per individual or per entity i.e.
    - A farm that is an LLC with 4 equal share (25%) owners
      - Produces 6-commodities that meet the criteria to receive limit of \$125,000 each due to losses in 2020 marketing year which would normally total \$750,000.
      - The LLC is limited to a total payment of \$250,000.
      - Each owner would only be able to receive \$62,500 each due to the entity limitation rule.
    - Under the same scenario except if it was a general partnership the each owner would be eligible for \$187,500, which is still below the individual maximum limit of \$250,000

## Tidbits

- Although there are still a number of unknowns rumors are filtering out individuals attempting to do math.
  - Unknown if true: up to \$150 per Cow for beef cow-calf
  - Unknown if true: up to \$41 an acre for pasture
- Recommendations
  - Make sure that farmers have:
    - Good production records to show what they may have had in inventory
    - What has been sold and at what price on what dates
    - Future planting, planted and production records
    - That farmers have the means to show that each of their products that will be marketed in the 2020 marketing year may have seen a 5% drop in value

What we know now.

---

# **USDA ASSISTANCE FOR FARMERS**

Assistance and Confusion

---

**\$349 BILLION IN SMALL BUSINESS  
LOANS**

# SBA Programs Topics to be Discussed

- Sec. 7(a): This includes the Paycheck Protection Program (PPP)
  - Includes Agriculture
  - Co-ops may also be eligible
- Sec. 7(b): Emergency Injury Disaster Loan (EIDL)
  - Typically agriculture is not eligible for these with a few carved out exceptions including greenhouses

# The Big Question

- What if the program or bank runs out of money?
  - Well it has.
  - Congress is going to attempt to appropriate additional funds with a bill on Tuesday April 21, 2020
    - AS of the evening April 20, 2020 the bill contained:
      - \$300 billion for SBA Paycheck Protection Program (PPP)
      - \$50 billion for the Economic Injury Disaster Loan (EIDL)
      - \$75 billion for hospitals
      - \$25 billion for testing
    - Negotiations were on going as of Monday evening

Dr. Adam J. Kantrovich, Clemson University

---

# **PAYCHECK PROTECTION PROGRAM (PPP), SBA SEC. 7(a)**

## PPP Basics

- Farms and Ranches are eligible
- Business must have been in operation on Feb 15, 2020
  - Self-employed and independent contractor will need to utilize 2019 tax information indicating they need to have been in operation in 2019.
- Business must meet SBA Size standards
- Available through lenders that are approved to service SBA loans and programs
- Maximum Loan amount is the lesser of:
  - \$10 Million
  - 250% of **average monthly payroll costs for 2019**
- The term/maturity of the Loan is 2-years from the point of forgiveness determination.
- Legislation states that Interest is not to exceed 4%, but the rules presently provides for the interest to be 1%, however we have seen as low as .5%



## Who is Eligible

- Generally for businesses that employ 500 or fewer employees
- The PPP loan program is to cover “small business concerns” AND
  - Business concerns (any business concern)
  - 501(c)(3) nonprofit
  - Veterans’ organization
  - Tribal business concern
  - Self-employed & independent contractors
  - Any business within specific industries and meets applicable SBA size standards for that industry even if it employs more than 500
  - Businesses with a North American Industry Classification System (NAICS) code beginning with 72, this would include lodging and restaurants

## Who is **NOT** Eligible

- Anyone engaged in an Federally illegal activity
  - That means NO marijuana businesses are eligible!
- Household employer, i.e. those that may employ a nannie, housekeeper, etc.
- 20% or more equity is owned by someone that is incarcerated, on probation or parole, indicted, or has been convicted of a felony crime within the last 5 years.
- A business owned or controlled by someone that has received a direct or guaranteed loan from SBA or any other federal agency that is currently delinquent or has defaulted within the last 7 years

## PPP Basics – Maximum Loan Amount Determination

- Maximum Loan Value is which ever is less: \$10 Million or 250% of the annual monthly average payroll cost.
- Start-ups not operating prior to 2020
  - Average monthly payroll costs between Jan. 1, 2020 and Feb. 29, 2020
- General Employers with Employees
  - 250% of average monthly payroll costs for 2019
- Seasonal Employers
  - Use the 12-week period beginning on Feb. 15, 2019 OR may use the 12-week period from March 1, 2019 – June 30, 2019
- Self-Employed with no employees
  - Use 2019 tax return information
    - Form 1040 Schedule C Line 31 (Net Profit Amount) or 1040F Line 34
      - If the amount in Line 31 (Schedule C) or Line 34 (1040F) is “zero” or less you are **NOT** eligible for a loan
      - If the amount in Line 31 (Schedule C) or Line 34 (1040F) is above \$100,000 you are limited to use only \$100,000 for the remainder of the equation.
      - Divide by 12 months and then multiple by 2.5
    - If EIDL Loans were also used there are additional steps

## PPP – Self-Employed Issues

- Because of the equation, that the self-employed are required to use, it is all but impossible to have the entire loan amount forgiven, why?
  - For the PPP to be forgiven, 75% of the loan amount must be used for payroll or as self-employed earnings compensation for the 8-week coverage period with non-payroll approved purposes not to exceed 25% if to be forgiven.
  - The actual equation for the following will be shown on a later in the presentation. Based on guidance using maximum limits:
    - Self-Employed with no employees loan value will be \$20,833
    - The limit for owner compensation is: \$15,385 for the 8-week coverage period
    - Based on the rules, 75% of the total loan amount must be used for payroll/owner compensation to be forgiven.
    - Based on the equations that are used to determine the maximum allowable self-employed owner compensation the compensation to the owner is only 73.8% AND the used remaining portion of the loan that is spent would be above 25% of the total loan amount.
    - This would leave a portion of the loan not forgiven and must be paid back as a loan with a term of 2-years. This is not all that bad to have a two –year loan at 1%

## PPP – Farms and Business with Employees

- What is included in payroll
  - Salary, wages, commission and similar
  - Cash tips or equivalent
  - Vacation, parental, family, medical or sick leave payed for by the employer
  - Allowances for dismissal or separation
  - Group health care coverage, insurance premiums and retirement payed for by the employer
  - State and local tax on compensation payed by the employer

## PPP – Farms and Business with Employees

- Payroll does **not** include:
  - Compensation to an individual in excess of \$100,000 (prorated)
  - Federal employment or employer share of withholding taxes or RRB Act taxes
  - Compensation to those whose principal residence is outside of the U.S.
  - Qualified leave under the Family First Act
  - Qualified leave wages for which credit is allowed under sec. 7001 or 7003 of the Family First Act

## What Employees have to be Counted to Determine Maximum Loan Amount?

- Includes individuals that are:
  - Full-time
  - Part-time
  - Other basis
- There are specific calculations for seasonal employers
- H-2A and H-2B: There is confusion and a lack of guidance that is specific to guest workers.
  - SBA and many banks will say they are not to be counted as employees and their payroll cannot be consider to determine the loan value.
  - However there are arguments that would indicate they should be counted.

## PPP Basics - Forgiveness

- PPP provides covered loans during the covered period
  - Period beginning on February 15, 2020 and ending June 30, 2020
- Potential Forgiveness
  - The 8-week period beginning on the date loan funds are provided to the borrower
  - Can only be used for expenses considered eligible AND
  - Only if 75% of the loan value is used to cover payroll, otherwise there will be a reduction in the amount that will be forgiven.
    - Must meet all other criteria in employee numbers, wages/salaries, etc.



# What Can the Loan Be Used For?

- Must be used to cover the cost of:
  - Payroll
    - It will not cover the annual dollar value above \$100,000 for those making above that amount.
    - It does include many benefits but not Comp.
    - Does not cover the employer share/portion of FICA
  - Utilities for the covered period
    - May also cover gas for the vehicle you use for work
  - Rent/Lease for the covered period that were already in place by Feb 15, 2020
  - Interest on loans that were already obligated by Feb. 15, 2020; This would include land and personal property.
    - The interest paid on some loans may not be considered eligible for forgiveness
  - DOES NOT COVER: Prepays, operating loan interest, etc.

# Forgiveness?

- Potential: The maximum loan amount plus any accrued interest.
- 75% of the total loan amount must have been used to cover payroll and or self-employed owner compensation (with limits)
- The other 25% could only have been used for approved expenses i.e. utilities, interest on approved debt, rent, etc.
- The loan portion that is forgiven will be reduced by any reduction in total salary/wages of any employee EXCEPT if:
  - Any reductions in employees or wages that occurred between Feb 15, 2020 and April 26, 2020 have been eliminated by June 30, 2020
  - i.e. if you reduced wages or furloughed anyone from 2/15/2020 and 4/26/2020 they must be back to normal numbers by June 30, 2020.

# **UNRESOLVED QUESTIONS, ISSUES, AND CHALLENGES**

---

# What if I Employ H-2A or H-2B Workers

- The legislative text reads that the funds may NOT cover “compensation of an employee whose principal place of residence is outside of the United States.”
  - There are multiple interpretations to what this may mean
- BUT if any H-2A workers principal residence is on the farm during employment does that count?
  - We are waiting on further guidance at this time. Formal questions have been provided to the Secretary.
- There are various arguments on both sides.

# Independent Contractors and Self-Employed

- Yes – Both are eligible for the PPP however, questions still need to be answered on how to handle if someone is in partnership and has additional business or is a sole proprietor of another business whether or not they can receive a PPP from the partnership and then a loan as an individual self-employed for their other business.

## Partnerships

- Each Partner does not apply for the loan on their own. The entity must apply for the PPP.
  - What is the maximum net profit level used?
    - Is it \$100,000 for the entire partnership if the net profit was higher?
    - Or is it \$100,000 for each partner if the net profit was capable of providing that?
  - How to handle guaranteed payments to a partner might be determined if we have a clear answer on the previous?
    - If the answer is \$100,000 for the entity then guaranteed payments are not potentially not considered.
    - And we know that a partner is not eligible for a PPP loan on their own for income derived from the partnership.

# Other Challenges

- What does the forgiveness process look like?
  - Right now the details of this have not yet been provided
- Bank Issues
  - Banks reaching their lending limits and not being able to lend any further until the Feds purchase their loans.
  - Continued software issues between banks and SBA
  - Different banks asking for different information and having different applications is creating confusion.
  - Banks not accepting applications from farmers because of the Schedule C language in the interim final rules
- SBA
  - Continued issues with local SBA's incorrectly stating who is eligible and who is not based on income, size, or sending farmers to FSA vs. using PPP.

## Final Word On PPP

- Much is yet to be determined from a lack of guidance in a number of areas. So keep watching.
- Be careful on decisions, think of this as you are taking out a 2-year low interest loan.
- For Self-Employed individuals without employees there are ways to limit the use of Sec. 179 depreciation and not utilize Bonus Depreciation for tax purposes to be able to increase the net profit of the farm. But be careful!
  - This will increase your taxable income for the 2019 year!
    - Does the extra taxes being paid out weigh any gains you would receive from a PPP loan and forgiveness? Do the math.
  - But it will provide carryover depreciation which you may or may not need in coming years.



Adam J. Kantrovich, Clemson University

---

# **EMERGENCY INJURY DISASTER LOAN (EIDL), SBA SEC. 7(b)**

## EIDL – SBA Sec. 7(b)

- Economic Injury Disaster Loans for Small Businesses
  - Traditional disaster loans for small business not agriculture
  - Agriculture traditionally serviced by USDA disaster programs – typically not included through SBA
  - Greenhouse operations qualify
  - Agriculture qualifies for EIDL as long as a similar relief program from USDA does not exist (more guidance is needed)

## EIDL – SBA Sec. 7(b)

- Loan advance up to \$10,000 (EIDL grant)
  - To be received within 3 days
  - Recipient not required to repay the amount advanced even if later denied EIDL
  - If applicant receives a PPP loan and EIDL, the EIDL amount reduces the amount of the PPP loan forgiven
  - Can be used to cover costs that cannot be covered due to reduced income, such as:
    - Employee sick leave
    - Payroll
    - Increased material costs
    - Rent, mortgages, or other obligations
  - EIDL is available through 12/2020 (exact day is state dependent)

## EIDL – SBA Sec. 7(b)

- Recipient Eligibility (in operation on 1/31/2020)
  - Businesses with no more than 500 employees
  - Individuals operating as sole proprietors or as independent contractors
  - Cooperatives with no more than 500 employees (also includes small ag cooperatives)
  - Tribal small business with no more than 500 employees
  - A business that is deemed to be a small business as defined using the SBA Size Standards from North American Classification System (NAICS) [https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards Effective%20Aug%202019%2C%202019 Rev.pdf](https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards%20Effective%20Aug%202019%2C%202019%20Rev.pdf)
  - Private non-profit organization granted under IRC 501(c), 501(d), or 501(e)

## EIDL – SBA Sec. 7(b)

- What about agriculture enterprises and EIDL
  - CARES Act did not modify the provision that excepted ag enterprises (production of food, fiber, ranching, livestock production, aquaculture, etc.)
  - Small ag cooperatives were specifically included
  - Greenhouses are eligible
  - Evidence that Congress did not intend to exclude agricultural enterprises but no clarification yet

## EIDL – SBA Sec. 7(b)

- EIDL Terms
- Maximum of \$2,000,000 depending upon economic injury
- Loan will not be forgiven
- Interest rates:
  - 3.75% for small businesses
  - 2.75% for non-profit organizations
  - Automatic 1-yr deferral but int. accrues immediately
- Maximum term is 30 years, however an applicant's financial condition may result in:
  - SBA shortening repayment period and adjusting the monthly payment amount

## EIDL – SBA Sec. 7(b)

- EIDL Terms (cont.)
- Loans of more than \$25,000 must be secured with collateral
- Loans of \$200,000 or more must have a personal guarantee
- CARES Act waives the personal guarantee requirement for loans of less than \$200,000

## EIDL – SBA Sec. 7(b)

- Allowed uses of EIDL
  - Employee sick leave
  - Payroll
  - Accounts Payable
  - Operating expenses and material costs
  - Rent
  - Fixed Debts: mortgage interest and other interest payments (not principal or prepayments)
  - Other obligations
- Disallowed uses of EIDL
  - Business expansion
  - Pay cash dividends or bonuses
  - Paying officers and owners unless directly related to services performed



## EIDL – SBA Sec. 7(b)

- Can apply for both EIDL and PPP
- Loan funds cannot be used for the same purpose
- Document uses of funds from each loan
- If use of EIDL for payroll, then PPP loan proceeds must be used to refinance EIDL
- EIDL advance will reduce PPP loan amount forgiven
- Planning: accept PPP first then consider need for EIDL
- EIDL application comes through SBA (open to 6/30/2020)
- PPP application comes through lender (open to 12/2020)
- EIDL application <https://covid19relief.sba.gov/#/>

## Interest Rates for Loans

Paycheck Protection Program	1.0 %
EIDL	3.75 %
Farm Service Agency	
Operating Loans	2.375 %
Micro Loans	2.375 %
Emergency Loans	6.375 %
Ownership Loans	3.0 %
Small Business Administration	
Emergency Loans	Maximum
4.0 %	

## Sample Farm – No Employees

- 2019 Net Farm Income (\$120,000) but maximum allowed for PPP calculation = \$ 100,000
- PPP maximum loan  $(100,000 \div 12 \times 2.5) = \$ 20,833$
- Farmer uses 75 % for owner compensation for 8 weeks so maximum amount forgiven for compensation  $(100,000 \div 52 \times 8) = \$ 15,385$
- Total spent on allowed non-payroll expenses  $(15,385 / 75\%) = \$ 20,513$

## Sample Farm – No Employees (cont.)

- Remaining amount above owner compensation (minimum is  $20,513 - 15,385 = \$ 5,128$ )
  - If not used, then this would roll into a loan and not be forgiven
  - If used for approved expenses, portions of this may be forgiven
- Farmer may use no more than \$15,385 for compensation
- If \$15,385 is not spent on owner compensation, then forgivable amount may be reduced
- Loan amount to be repaid = \$ 321

## Sample Farm – Employees

- 2019 Net Farm Income (\$120,000) but maximum allowed for PPP calculation = \$ 100,000
- 2019 employee compensation: A paid \$110,000 & B paid \$70,000 but maximum per employee is (\$100,000)
- Total compensation (100,000 + 100,000 + 70,000) = \$ 270,000
- PPP maximum loan  $(270,000 \div 12 \times 2.5) = \$ 56,250$
- Total compensation for 8 weeks so maximum amount forgiven for compensation  $(270,000 \div 52 \times 8) = \$ 41,538$
- Total spent on allowed non-payroll expenses  $(41,538 / 75\%) = \$ 55,385$

## Sample Farm – Employees (cont.)

- Remaining amount above owner compensation and payroll purposes is (minimum 55,385 – 41,538) = \$ 13,847
  - If not used, then this would roll into a loan and not be forgiven
  - If used for approved expenses, portions of this may be forgiven
- Farmer may use no more than \$ 41,538 for compensation & payroll
- If \$ 41,538 is not spent on owner compensation and wages, then the forgivable amount may be reduced
- Loan amount to be repaid = \$ 856

## PPP With EIDL

- If farmer receives an EIDL loan in addition to a PPP loan:
  - Can refinance EIDL made between 1/31/20 and 4/3/20 but term is reset to 2 years
  - If EIDL was used for payroll expenses:
    1. then PPP loan must be used to refinance the EIDL loan (lower interest rate (1% vs 3.75%) with a shorter term)
    2. proceeds from the advance up to \$10,000 of EIDL will be deducted from the loan forgiveness amount of the PPP loan.

## Record Keeping

- It will be necessary to keep meticulous records of expenditures paid for during the 8 week period for PPP reporting
- Use a separate bank account for your PPP loan for ease of keeping things straight
- Be sure to spend proceeds on approved items (payroll, utilities, rent and covered mortgage interest (business related loans)



# References

- SBA Economic Injury Disaster Loan (EIDL):  
<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>
- SBA Paycheck Protection Program (PPP):  
<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>
- SBA Business Loan Program – Interim Final Rule:  
<https://home.treasury.gov/system/files/136/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>
- PPP Loan forgiveness guidance:  
<https://www.jdsupra.com/legalnews/ppp-loan-forgiveness-further-guidance-10550/>
- EIDL application: <https://covid19relief.sba.gov/#/>

Who is eligible and how much might I receive

---

# **CARES ACT, ECONOMIC IMPACT PAYMENT**

## Main Points

- How is Eligibility Determined & Who is Eligible
- What are the Potential Maximum Payments
- Examples

## How is Eligibility Determined

- Just about every legal resident is eligible for the payment
- Eligibility is determined through tax documents
  - 2019 Tax Return
  - 2018 Tax Return
  - SSR-1099
  - RRB-1099
- If 2019 and 2018 taxes have not been filed and the individual(s) do not receive Social Security or Railroad Retirement Benefits they need to see a tax professional to determine if filing 2019 taxes would be of benefit.
- Non-tax filers or those that do not receive the above mentioned benefits may still be eligible but will need to provide information to the IRS at: <https://www.irs.gov/coronavirus/non-filers-enter-payment-info-here>

## How is Eligibility Determined

- The amount of the payment will be determined based on an Adjusted Gross Income (AGI) threshold level and then a 5% phase out for every dollar above the threshold level.
- Maximum potential payment
  - \$1,200 Per individual
  - \$500 Per qualifying dependent child

## What is a Qualifying Child?

- A qualifying child is a child, stepchild, adopted child, or a descendent (including brother, sister, niece, and nephews, etc.) that the taxpayer cares for and is claimed on the tax return.
- The child must be younger than the taxpayer and younger than 19 at the conclusion of the filing year.
- A child that is younger than the taxpayer and younger than 24 if they are a full-time student.
- The child is “permanently and totally disabled” of any age.

# Maximum Payment Potential at AGI Threshold before Phase Out and No Qualifying Child

**Table 1.** AGI limits for maximum Economic Impact Payment by taxpayer filing status.

Income Tax Filing as:	Adjusted Gross Income	Maximum Economic Impact Payment
Single Individual (S)	< \$75,000	\$1,200
Married, Filing Jointly (MFJ)	< \$150,000	\$2,400
Head of Household (HOH)	< \$112,500	\$1,200

# AGI Level Resulting in No EIP Payment

**Table 2.** Adjusted Gross Income level resulting in a zero EIP by taxpayer filing status.

Income Tax Filing as:	Adjusted Gross Income	Economic Impact Payment
Single Individual (S)	$\geq \$99,000$	\$0 (Exceeds AGI limit)
Married, Filing Jointly (MFJ)	$\geq \$198,000$	\$0 (Exceeds AGI limit)
Head of Household (HOH)	$\geq \$136,500$	\$0 (Exceeds AGI limit)



# AGI Plus 1 Child

**Table 3.** Adjusted Gross Income Level with one child resulting in zero EIP by tax filer status.

Income Tax Filing as:	Max. EIC	Adjusted Gross Income	Economic Impact Payment
Married, Filing Jointly (MFJ) + 1 Child	\$2,900	$\geq$ \$208,000	\$0 (Exceeds AGI limit)
Head of Household (HOH) + 1 Child	\$1,700	$\geq$ \$146,500	\$0 (Exceeds AGI limit)

# References

- Economic Impact Payment, How are they going to work? (or how much will I receive)? Kantrovich, Mickey, Smith, Richards.  
<https://lgpress.clemson.edu/publication/economic-impact-payments-how-are-they-going-to-work-or-how-much-will-i-receive/>
- The Coronavirus Aid, Relief, and Economic Security (CARES) Act, H.R. 748, 116<sup>th</sup> Cong. (2020). <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>.
- Economic impact payments: What you need to know. Internal Revenue Service. Washington (DC): IRS. (<https://www.irs.gov/newsroom/economic-impact-payments-what-you-need-to-know>)
- Qualifying child rules. Internal Revenue Service. Washington (DC): IRS. <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/qualifying-child-rules>.

## Contact Information

### **Adam J. Kantrovich**

Extension Assoc. Prof. of Agribusiness &  
Dir. of Clemson Income Tax School

Clemson University

[akanthro@clemson.edu](mailto:akanthro@clemson.edu)

616-834-8377 Cell

**Clemson University Extension AgBusiness Team**

<http://www.clemson.edu/extension/agribusiness>

### **Stan Moore**

Senior Extension Educator  
Michigan State University Extension

[moorest@msu.edu](mailto:moorest@msu.edu)

231-350-0400 Cell

Michigan State University Farm Mgmt. Team

[https://www.canr.msu.edu/farm\\_management](https://www.canr.msu.edu/farm_management)

## General Resources

- [USDA COVID-19 Federal Rural Resource Guide](#)
- [Clemson Agribusiness COVID-19 Resource Site](#)
- [Michigan State University Extension Farm Management Novel COVID-19 Resources Page](#)
- [Paycheck Protection Program Offers Forgivable Loans for Eligible Small Businesses, Kristine Tidgren, Iowa State University](#)
- [Clemson University Farm Stress Management Website](#)

## Specific Rule(s) and Agency Resources

- [Small Business Administration Final Draft Rule on PPP](#)
- [U.S. Dept. of Treasury PPP FAQ](#)
- [U.S. Dept. of Treasury Asst. for Small Business CARES](#)
- [SBA COVID-19 Small Business Guidance and Loan Resources](#)
- [SBA Fact Sheet – Economic Injury Disaster Loans](#)

## Resources – Labor Related

- [H.R. 6201 – Families First Act](#)
- [CDC Resource Page for Businesses and Employers](#)
- [U.S. DOL Families First Act](#)
- [U.S. DOL Families First Act FAQ](#)
- [U.S. DOL Office of Foreign Labor Certification \(OFLC\) – COVID-19 FAQ \(Round 1\)](#)
- [U.S. DOL OFLC FAQ \(Round 2\)](#)
- [U.S. DOL OFLC FAQ \(Round 3\)](#)
- [Fisher Phillips Resources Page](#)



United States Department of Agriculture



**I**n accordance with Federal law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and American Sign Language) should contact the responsible State or local Agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

**mail:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or

**fax:**  
(833) 256-1865 or (202) 690-7442;

**email:**  
program.intake@usda.gov.

This institution is an equal opportunity provider.

**C**onforme a la ley federal y las políticas y regulaciones de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta institución tiene prohibido discriminar por motivos de raza, color, origen nacional, sexo, edad, discapacidad, venganza o represalia por actividades realizadas en el pasado relacionadas con los derechos civiles (no todos los principios de prohibición aplican a todos los programas).

La información del programa puede estar disponible en otros idiomas además del inglés. Las personas con discapacidades que requieran medios de comunicación alternativos para obtener información sobre el programa (por ejemplo, Braille, letra agrandada, grabación de audio y lenguaje de señas americano) deben comunicarse con la agencia estatal o local responsable que administra el programa o con el TARGET Center del USDA al (202) 720-2600 (voz y TTY) o comunicarse con el USDA a través del Servicio Federal de Transmisión de Información al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe completar un formulario AD-3027, Formulario de queja por discriminación del programa del USDA, que se puede obtener en línea, en cualquier oficina del USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida al USDA. La carta debe contener el nombre, la dirección y el número de teléfono del reclamante, y una descripción escrita de la supuesta acción discriminatoria con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR, por sus siglas en inglés) sobre la naturaleza y la fecha de la presunta violación de los derechos civiles. La carta o el formulario AD-3027 completado debe enviarse al USDA por medio de:

**correo postal:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; o

**fax:**  
(833) 256-1865 o (202) 690-7442;

**correo electrónico:**  
program.intake@usda.gov.

Esta institución ofrece igualdad de oportunidades.

*Disclaimer*

*The information in this publication/presentation is provided only for educational purposes and to inform the reader of relevant topics. This is not to be perceived or utilized as formal tax or legal advice. **It is up to the reader to seek the necessary and appropriate tax and legal professionals that specialize in these areas for specific guidance.***