



Louisiana Farm Bureau Federation, Inc.

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May 4, 2020

To: LFBF State Board, Executive Committee, Parish Presidents, LFBF Commodity Advisory Committees, Young Farmers and Ranchers Committee, Women's Committee, LFBF Field Staff, LFBF Staff, Advisors

From: LFBF Commodity Department

RE: Payroll Protection Program (PPP) – H-2A Wages, Economic Injury Disaster Loan (EIDL), USDA Purchasing Commodities

SBA - Payroll Protection Program (PPP) – Primary Residence - H-2A worker payroll

Last week, we shared an *American Hort* interpretation of IRS - Primary Residence test that stated that for workers with two residences, ordinarily the address where the worker resides for over 6 months (180 days or more) would be considered the primary residence.

However, there are several other questions in the IRS – Primary Residence test, some that may not be favorable toward establishing an H-2A workers - U.S. address as their primary residence such as where does the worker's family reside? As a result, many Louisiana bankers do not feel H-2A workers meet the primary residence test and are not including H-2A wages in average wages to calculate the PPP loan amount.

The additional PPP funds will run out soon, so if you have not yet submitted, please review the selected language from the PPP Interim Final Rule of what qualifies and submit your PPP loan application soon.

f. What qualifies as “payroll costs?” Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation.

g. Is there anything that is expressly excluded from the definition of payroll costs?

Yes. The Act expressly excludes the following: Any compensation of an employee whose principal place of residence is outside of the United States;

ii. The compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary;

h. Do independent contractors count as employees for purposes of PPP loan calculations? No, independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan calculation.

Payroll Protection Program – Alternative Base Period for calculating PPP loan amount

Previously, PPP seasonal employer applicants were limited to calculate their maximum loan amount by using their monthly average payments for payroll during the 12-week period beginning February 15, 2019, or at the election of the borrower, March 1, 2019, and ending June 30, 2019.

The limitation on the weeks allowed left those with a greater late season payroll at a disadvantage in applying for the PPP. The recent Interim Final Rule addresses this disparity by providing a seasonal employer the option of using any consecutive 12-week period between May 1, 2019 and September 15, 2019 for determining its maximum PPP loan amount.

SBA – Economic Injury Disaster Loans (EIDL) now available for agriculture

For the first time in 30 years, agriculture is eligible for the Economic Injury Disaster Loan (EIDL) Program. On May 4, 2020, the SBA opened the application portal exclusively for agricultural business applications.

According to the SBA, agricultural businesses that submitted an EIDL application through the streamlined application portal prior to the legislative change will be processed without the need for re-applying and applicants will be processed on a first-come, first-served basis.

Agricultural businesses include those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries (as defined by section 18(b) of the Small Business Act (15 U.S.C. 647(b)).

SBA is encouraging all eligible agricultural businesses with 500 or fewer employees wishing to apply to begin preparing their business financial information needed for their application.

The SBA will determine your loan amount based on your working capital needs. Collateral is needed for loans over \$25,000 and interest rates are 3.75%. Agriculture is also eligible for up to a \$10,000 loan advance that does not have to be repaid. The amount of the advance is based on your number of employees and your advance is subtracted from your PPP loan forgiveness. The good news is that even though you have credit available at a bank, the SBA has issued a waiver and you are eligible to apply for the EIDL Program. Below are two helpful slides from the SBA – EIDL webinar.

Economic Injury Disaster Loans

Example of Information Requested for Application

- Self certify that business is an agricultural enterprise with not more than 500 employees
- Business legal name, trade name, EIN or SSN for sole prop, organization type, business activity, number of employees
- For the 12-month period prior to January 31, 2020:
 - Gross Revenues
 - Cost of Goods Sold
 - Cost of Operation, i.e. operating expenses
- Compensation from other sources (reduces loan amount)

Economic Injury Disaster Loans

Advances

- Must check that you would like to be considered for Advance of up to \$10,000 (towards end of application)
- Provide bank account information where funds will be deposited
- Amount of Advance is determined by number of employees; \$1,000 per employee up to a maximum of \$10,000
- Advance does not have to be paid back, and you do not have to qualify for loan to receive Advance
- Advance will be subtracted from PPP forgiveness



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For further information and to apply, the link for the EIDL is:
<https://www.sba.gov/page/disaster-loan-applications#section-header-0>

USDA announces \$470 million in commodity purchases for third-quarter

May 4, 2020 – U.S. Secretary of Agriculture Sonny Perdue today announced details of \$470 million in Section 32 food purchases to occur in the third quarter of fiscal year 2020, in addition to purchases previously announced, which will enable USDA to purchase surplus food for distribution to communities nationwide. The Agricultural Marketing Service (AMS) will purchase a wide variety of fruits, vegetables, meat, dairy and seafood products. Purchase amounts for each commodity are listed in the chart below.

Purchases are determined by industry requests, market analysis and food bank needs. AMS will begin issuing solicitations in June and intends to begin deliveries in July. Details on how vendors may participate are available on the [Selling Food to USDA](#) page on the AMS website. Solicitations will be posted to the [AMS Open Purchases Request website](#) once available. Industry requests for future purchases using Section 32 funds, including potential fourth quarter of fiscal year 2020 plans, will be assessed on an ongoing basis.

Commodity	Purchase Amount
Asparagus	\$5,000,000
Catfish Products	\$30,000,000
Chicken	\$30,000,000
Dairy Products	\$120,000,000

Commodity	Purchase Amount
Haddock, Pollock, Redfish (Atlantic)	\$20,000,000
Orange Juice	\$25,000,000
Pears	\$5,000,000
Pollock (Alaska)	\$20,000,000
Pork	\$30,000,000
Potatoes	\$50,000,000
Prunes	\$5,000,000
Raisins	\$15,000,000
Strawberries	\$35,000,000
Sweet Potatoes	\$10,000,000
Tart Cherries	\$20,000,000
Turkey Products	\$50,000,000
Total	\$470,000,000

Through the use of available funding, USDA plans to purchase 100 percent American-grown and produced agricultural products totaling \$4.89 billion for the remainder of this fiscal year in support of American agriculture and people in need.

The other USDA funded programs are as follows:

Farmers to Families Food Box Program- \$3 billion

- USDA is exercising authority under the Families First Coronavirus Response Act (FFCRA) to partner with regional and local distributors, whose workforce has been significantly impacted by the closure of many restaurants, hotels and other food service entities, to purchase and distribute \$3 billion in fresh produce, dairy and meat products. The purchases will be distributed through the Farmers to Families Food Box Program.
- AMS will procure an estimated \$100 million per month in fresh fruits and vegetables, \$100 million per month in a variety of dairy products and \$100 million per month in meat products to provide a pre-approved box of fresh produce, dairy and meat products to food banks and other non-profits serving Americans in need.

TEFAP - Additional \$850 million

- On an ongoing basis, USDA supports low-income families through the Emergency Food Assistance Program (TEFAP), which provides emergency food assistance to states. USDA purchases a variety of nutritious, high-quality foods using Section 32 and other funds and makes those foods available for distribution to states to operate TEFAP.
- USDA plans to utilize an additional \$400 million provided by the FFCRA and \$450 million provided by the Coronavirus Aid Relief and Economic Security Act to make additional purchases for TEFAP program recipients. The commodities and products procured for this program will be determined by food bank need and product availability.

Support Program for Farmers- \$573.6 million

- Through the Food Purchase and Distribution Program (FPDP), AMS is continuing its plans to purchase \$1.4 billion in agricultural products produced by U.S. farmers, ranchers and producers suffering from damage due to unjustified trade retaliation by foreign nations.
- A total of \$573.6 million remains for these purchases this fiscal year. These food purchases are provided to states for distribution to the network of food banks and food pantries that participate in TEFAP.

If you have questions or wish to contact the LFBF Commodity Department: Brian Breaux can be contacted at brianb@lfbf.org or by cell at 225-603-0924; Andy Brown can be contacted at andyb@lfbf.org or by cell at 225-480-8842; and Ron Harrell can be contacted at ronh@lfbf.org or by cell at 225-235-0735.