



Eligibility of Agricultural Related Industries

Cares Act Paycheck Protection Program

Eligibility: (<https://www.appropriations.senate.gov/imo/media/doc/FINAL%20FINAL%20CARES%20ACT.pdf>)

“(i) IN GENERAL.—During the covered period, in addition to small business concerns, any business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 31(b)(2)(C) shall be eligible to receive a covered loan if the business concern, nonprofit organization, veterans organization, or Tribal business concern employs not more than the greater of— “(I) 500 employees; or “(II) if applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, veterans organization, or Tribal business concern operates.”

SBA Paycheck Protection Program Interim Final Rule

Eligibility: (https://www.sba.gov/sites/default/files/2020-04/PPP%20Interim%20Final%20Rule_0.pdf)

“You are eligible for a PPP loan if you have 500 or fewer employees whose principal place of residence is in the United States, or are a business that operates in a certain industry and meet the applicable SBA employee-based size standards for that industry, and You are: A small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632), and subject to SBA’s affiliation rules under 13 CFR 121.301(f) unless specifically waived in the Act; or B. A tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC), a tax-exempt veterans organization described in section 501(c)(19) of the IRC, Tribal business concern described in section 31(b)(2)(C) of the Small Business Act, or any other business; and ii. You were in operation on February 15, 2020 and either had employees for whom you paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099–MISC. You are also eligible for a PPP loan if you are an individual who operates under a sole proprietorship or as an independent contractor or eligible selfemployed individual, and you were in operation on February 15, 2020. You must also submit such documentation as is necessary to establish eligibility such as 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, such as bank records, sufficient to demonstrate the qualifying payroll amount. SBA intends to promptly issue additional guidance with regard to the applicability of affiliation rules at 13 CFR 121.103 and 121.301 to PPP loans.”



Small Business Act, Section 3: (<https://www.law.cornell.edu/uscode/text/15/632>)

“For the purposes of this chapter, a small-business concern, including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries, shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation.”

U.S. Department of Treasury Frequently Asked Questions

Guidance: (<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>)

Are small business concerns (as defined in section 3 of the Small Business Act, 15 U.S.C. 632) required to have 500 or fewer employees to be eligible borrowers in the PPP? Answer: No. Small business concerns can be eligible borrowers even if they have more than 500 employees, as long as they satisfy the existing statutory and regulatory definition of a “small business concern” under section 3 of the Small Business Act, 15 U.S.C. 632. A business can qualify if it meets the SBA employee-based or revenue based size standard corresponding to its primary industry. Go to www.sba.gov/size for the industry size standards. Additionally, a business can qualify for the Paycheck Protection Program as a small business concern if it met both tests in SBA’s “alternative size standard” as of March 27, 2020: (1) maximum tangible net worth of the business is not more than \$15 million; and (2) the average net income after Federal income taxes (excluding any carry-over losses) of the business for the two full fiscal years before the date of the application is not more than \$5 million. A business that qualifies as a small business concern under section 3 of the Small Business Act, 15 U.S.C. 632, may truthfully attest to its eligibility for PPP loans on the Borrower Application Form, unless otherwise ineligible.”

Are agricultural producers, farmers, and ranchers eligible for PPP loans?:

(https://www.sba.gov/sites/default/files/2020-04/Paycheck-Protection-Program-Frequently-Asked-Questions_04%2024%2020.pdf)

*Yes. Agricultural producers, farmers, and ranchers are eligible for PPP loans if: (i) the business has 500 or fewer employees, or (ii) the business fits within the revenue-based sized standard, which is average annual receipts of \$1 million. Additionally, agricultural producers, farmers, and ranchers can qualify for PPP loans as a small business concern if their business meets SBA’s “alternative size standard.” The “alternative size standard” is currently: (1) maximum net worth of the business is not more than \$15 million, and (2) the average net income after Federal income taxes (**excluding any carry-over losses**) of the business for the two full fiscal years before the date of the application is not more than \$5 million. For all of these criteria, the applicant must include its affiliates in its calculations. Link to Applicable*



Affiliation Rules for the PPP: <https://www.sba.gov/sites/default/files/2020-04/Affiliation%20rules%20overview%20%28for%20public%29%20v2.pdf>

Are aricultural and other forms of cooperatives eligible to receive PPP loans?:

(https://www.sba.gov/sites/default/files/2020-04/Paycheck-Protection-Program-Frequently-Asked-Questions_04%2024%2020.pdf)

As long as other PPP eligibility requirements are met, small agricultural cooperatives and other cooperatives may receive PPP loans

Paycheck Protection Program Borrower Application For Farmers:

(<https://home.treasury.gov/system/files/136/How-to-Calculate-Loan-Amounts.pdf>)

Self-employed farmers (i.e., those who report their net farm profit on IRS Form 1040 Schedule 1 and Schedule F) should use IRS Form 1040 Schedule F in lieu of Schedule C, and Schedule F line 34 net farm profit should be used to determine their loan amount in place of Schedule C line 31 net profit. The 2019 IRS Form 1040 Schedule 1 and Schedule F should be included with the loan application.

Rural Hospitals- Is a hospital owned by governmental entities eligible for a PPP loan?

(<https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Requirements-for-Promissory-Notes-Authorizations-Affiliation-and-Eligibility.pdf>)

A hospital that is otherwise eligible to receive a PPP loan as a business concern or nonprofit organization (described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code) shall not be rendered ineligible for a PPP loan due to ownership by a state or local government if the hospital receives less than 50% of its funding from state or local government sources, exclusive of Medicaid. The Administrator, in consultation with the Secretary, determined that this exception to the general ineligibility of government-owned entities, 13 CFR 120.110(j), is appropriate to effectuate the purposes of the CARES Act