SBA PPP and the USDA Food Assistance Program – Are these conflicting programs?

On Tuesday, the Senate voted to re-fund the Paycheck Protection Program with an additional $310 billion in funding and the House of Representatives is voting to approve it as of April 23. This additional funding includes some provisions to help ensure the money gets to traditional “small” business. This includes $60 billion set aside for community banks and credit unions. The SBA has also clarified that although the CARES Act suspended the SBA requirement that borrowers not have access to credit elsewhere to be eligible for the loan, the business still has to certify in good faith that the PPP loan request is necessary. The SBA specifically mentioned that they believe it is unlikely that public companies with access to capital markets will be able to make that certification in good faith and should be prepared to defend it. If these companies repay the loan in full by May 7th, they will be forgiven for this. The SBA specifically addresses public companies in this comment, but all borrowers should be prepared to support their certification that the loan was necessary.

On April 17th, the USDA announced the Coronavirus Food Assistance Program (CFAP) to provide $16 billion in direct support related to the pandemic. According to the USDA, the CFAP will provide direct support based on actual losses for ag produces where prices and market supply chains have been affected. The CFAP will also assist producers with additional adjustments and marketing costs resulting from lost demand and short-term oversupply for the 2020 marketing year caused by COVID-19. There were host of other programs announced including crop insurance flexibilities, farm loan flexibilities, commodity loan flexibilities and food purchase and distribution. At the moment, FSA offices have no additional info and the USDA website says that eligibility, rates and other implementation details will be released at a later date.

Originally, it was assumed that farmers did not qualify for a PPP loan. However, when additional guidance came out for self-employed individuals it became clear that even farmers without employees could qualify based on their Schedule F profit. The SBA guidance specifically mentions self-employed individuals and small businesses, of which farms fall into, but does not mention farms specifically. The concern early on, was that applying for a PPP loan may make you ineligible for USDA Coronavirus programs or vice versa. At the moment that does not appear to be the case, but USDA employees readily admit they do not know for sure and have no additional info at the moment. Any farmer who applies for a PPP loan should be aware of the risk the USDA may limit them from other programs that may be created or even adjust the rules for ones currently in place because of limited funds.

Anyone who has applied for low interest loan programs through the USDA, such as first-time farmer loans, should be especially aware that they may be at risk if they accept a PPP loan. These programs are similar in nature and can have restrictive qualifications set by the USDA.

At this point, we are recommending that farmers who believe they qualify for a PPP loan apply for one with their banker if they believe it is necessary to support their operations. This will reserve their place in line as funds begin to be apportioned. At the time the bank approves the loan and provides loan documents, farmers should reevaluate if any new information from the USDA has been made available that would make them change their stance on the loan. At that point, the farmer could still turn down the approved loan if it would be harmful to them with the USDA.

Please contact your CPA by email or phone if you would like to discuss your specific situation.