

NOTE: This guide is intended for informational purposes. Interested businesses should carefully consult the guidance, regulations, and requirements issued by the administering federal agencies for authoritative information on eligibility, amounts of assistance, and other matters related to the programs outlined herein.

RESOURCES FOR HAWAII'S AGRICULTURE INDUSTRY

RECENTLY ENACTED FEDERAL LEGISLATION PROVIDES RESOURCES AND INITIATIVES TO ASSIST BUSINESSES IMPACTED BY THE COVID-19 PANDEMIC.

THIS GUIDE PROVIDES SUMMARY INFORMATION ABOUT MAJOR PROVISIONS THAT COULD OFFER CRITICAL SUPPORT TO HAWAII'S AGRICULTURE INDUSTRY AND WILL BE UPDATED PERIODICALLY (CURRENT AS OF SEPTEMBER 28 2020).



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U.S. DEPARTMENT OF AGRICULTURE CORONAVIRUS FOOD ASSISTANCE PROGRAM 2

Summary of Assistance: USDA has announced up to \$14 billion in funding for a second round of direct payments to farmers and producers that continue to suffer from market disruptions and costs due to the COVID-19 pandemic. This program, CFAP 2, is an expansion of the earlier program, CFAP, which ran from May 26 through September 11.

Responsible Federal Agency: U.S. Department of Agriculture (USDA) Farm Service Agency (FSA).

Type of Assistance: The program provides direct payments to farmers and producers who continue to experience market disruptions and costs as a result of COVID-19.

Eligibility Requirements: Producer participation in the Small Business Administration (SBA) relief programs does not impact eligibility for USDA CFAP 2.

Direct Payment to Farmers

- USDA has split eligible commodities into the following three categories:
 1. Price Trigger Commodities
 - a. Those experiencing at least a 5 percent sales drop
 - b. Examples include beef cattle, hogs/pigs, eggs, and row crops such as corn and soybeans
 2. Flat Rate Crops
 - a. Crops that have not experienced a 5 percent sales drop or lack data to calculate a price change
 - b. Examples include sugar beets, quinoa, hemp, and peanuts
 3. Sales Commodities
 - a. Crops with payment calculations based on five gradations associated with 2019 sales
 - b. Examples include fruits, vegetables, tree nuts, honey, floriculture and nursery products, and aquaculture
- For a full list of eligible commodities visit <https://www.farmers.gov/cfap/commodities>.

Who is eligible? Producers who have an Adjusted Gross Income (AGI) under \$900,000 for tax years 2016, 2017, and 2018 or have an AGI over \$900,000 and derive at least 75 percent of their income from farming, ranching, or forestry-related activities.

U.S. DEPARTMENT OF AGRICULTURE CORONAVIRUS FOOD ASSISTANCE PROGRAM 2

How to Apply: Farmers and producers who are interested in applying for direct payments can sign up through the FSA office at their local USDA Service Center. Applications for direct payments will be accepted now through December 11, 2020. Interested applicants are encouraged to call their local office. A CFAP Call Center is available for producers who would like additional one-on-one support with the CFAP 2 application process. Please call 877-508-8364 to speak directly with a USDA employee ready to offer assistance.

Required Paperwork: To apply for direct payments applicants will need to reference sales, inventory, and other records. However, since self-certification is allowed those documents will not be required with the caveat that applications are subject to County Committee review and spot check. Producers are encouraged to retain the documentation they use to complete the application. Links to the application and a list of additional materials can be found by visiting <https://farmers.gov/cfap>.



U.S. SMALL BUSINESS ADMINISTRATION PAYCHECK PROTECTION PROGRAM (PPP)

Summary of Assistance: Congress created the PPP program to provide loans for businesses and nonprofits that need assistance with payroll costs and related expenses due to COVID-19. These loans will be forgiven if businesses meet certain requirements. While the deadline for businesses to receive loans has passed, those with questions about the program can find more information, including details about the loan forgiveness process, on the U.S. Small Business Administration's (SBA) website.

Responsible Federal Agency: U.S. Small Business Administration (SBA) and U.S. Treasury Department (Treasury Department). (Please note that actual financial assistance is provided through private sector banks and other financial institutions).

Type of Assistance: Loans that may be forgiven if certain requirements are met.

Eligibility Requirements (Note: The deadline to receive loans was August 8, 2020):

- A business must have no more than 500 employees.
- Sole proprietorships, independent contractors, the self-employed, non-profits, and 501(c)(19) veterans organizations may also qualify.
- The business or entity must have been in operation on February 15, 2020.
- Treasury and SBA have determined that agricultural producers, farmers, and ranchers are eligible for PPP if they have 500 or fewer employees or meet the SBA's revenue-based size standard (average annual receipts of \$1 million). Agricultural cooperatives are also eligible for PPP provided other program requirements are met. To learn more about eligibility visit USDA's website at: <https://www.usda.gov/coronavirus>.

Further Resources: More information is available on SBA's website, here: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>. Information is also available on the Treasury Department's website, here: <https://home.treasury.gov/policy-issues/cares>.

Local Resources: Local businesses with additional questions about the program should reach out to Hawaii SBA: <https://www.sba.gov/offices/district/hi/honolulu> or Hawaii SBDC: <https://www.hisbdc.org/> for more information.

U.S. SBA ECONOMIC INJURY DISASTER LOANS (EIDL)

Summary of Assistance: Hawaii businesses, including farms and agricultural enterprises, are eligible for Economic Injury Disaster Loans (EIDL), which are available directly through the U.S. Small Business Administration (SBA).

Responsible Federal Agency: U.S. Small Business Administration (SBA)

Type of Assistance: Loans (Up to \$2 Million)

Eligibility Requirements: Congress previously expanded eligibility to farms and agricultural enterprises that have no more than 500 employees. SBA defines agricultural enterprises as “businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries.” This is in addition to small agricultural cooperatives, aquaculture enterprises, and nurseries that were eligible earlier in the program. Businesses with more than 500 employees may still qualify, but must meet the SBA's industry specific small business size standards, or be an individual who operates a sole proprietorship or as an independent contractor. Certain other entities may also be eligible.

How to Apply: Given the high demand for this program, businesses, nonprofits, independent contractors, and self-employed individuals who are interested in applying for these loans should contact the SBA as soon as possible. More information about how to apply for EIDL can be found at: <https://www.sba.gov/page/disaster-loan-applications>. You can also read more online by visiting: <https://www.hirono.senate.gov/news/pressreleases/sba-approves-disaster-assistance-for-hawaii-small-businesses>.

Local Resources: Local businesses with additional questions about the programs and others should reach out to Hawaii SBA: <https://www.sba.gov/offices/district/hi/honolulu> or Hawaii SBDC: <https://www.hisbdc.org/> for more information.

RESIDENTIAL MORTGAGE PROVISIONS

Summary of Assistance: The Coronavirus Aid, Relief, and Economic Security (CARES) Act automatically prohibited foreclosures on all federally-backed mortgage loans beginning on March 18, 2020 and extending through at least December 31, 2020. It also provides up to 180 days of forbearance for single family owners with federally-backed mortgages who have experienced a financial hardship related to COVID-19. You must contact your mortgage servicer to request this forbearance. Mortgages under these provisions include those purchased by Fannie Mae and Freddie Mac, U.S. Department of Agriculture (USDA) Direct Loans, and those ensured by Housing and Urban Development (HUD) Federal Housing Administration (FHA), U.S. Department of Veterans Affairs (VA), or USDA.

The law provides up to 90 days of forbearance for owners of multi-family properties experiencing financial hardship. Borrowers who utilize this forbearance are prohibited from evicting tenants or charging late fees to tenants for the duration of the forbearance period. You must contact your mortgage servicer to request this forbearance. Mortgages included under these provisions include loans to real property designed for five or more units that are purchased, insured, or assisted by Fannie Mae, Freddie Mac, or HUD.

USDA Rural Development:

Type of Assistance:

- **Rural Home Loans (Direct Program):**
https://www.rd.usda.gov/sites/default/files/508_RD_FS_RHS_SFH502Direct.pdf
- **Single Family Home Loan Guarantees:**
<https://rd.usda.gov/sites/default/files/RD-GRH-COVID19Borrowers.pdf>
- **Multi-Family Housing Direct Loans:**
https://www.rd.usda.gov/sites/default/files/508_RD_FS_RHS_MFHDirectLoans.pdf
- Additional information on Rural Development's response to COVID-19 or to access Spanish-language versions of these documents: <https://www.rd.usda.gov/coronavirus>

Local Resources: USDA Rural Development, Hawaii Local Office Voice: (808) 933-8305 Fax: (855) 878-2460
www.rd.usda.gov/hi

HUD:

Type of Assistance:

- **Homeowner:** <https://www.hud.gov/coronavirus/homeowners>
- **Multi-Family Property Owner:** https://www.hud.gov/coronavirus/property_owners
- **Immediate Assistance with Fair Housing Issues:** Contact HUD at 1-800-699-9777.
- **Immediate Assistance with FHA Single Family Issues:** Email answers@hud.gov or call 1-800-Call-FHA.

Local Resources: For mortgage assistance, contact a local HUD-approved Housing Counseling Agency, found here: <https://www.hud.gov/states/hawaii/homeownership/buyingprgms>. For additional resources for homeowners and renters, see this guide from the Legal Aid Society of Hawaii: <https://www.legallaidhawaii.org/housing-covid-19.html>.

FEDERAL TAX PROVISIONS

The federal Internal Revenue Service (IRS) will be issuing guidance and other information on both individual and business specific provisions included in the CARES Act online at: <https://www.irs.gov/coronavirus>

NOTE: For all tax provisions, interested businesses should consult their tax professionals.

- **Employee Retention Credit:** This provision would provide a refundable payroll tax credit for 50 percent of wages paid by eligible employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings. The credit is also provided to employers who have experienced a greater than 50 percent reduction in quarterly receipts, measured on a year-over-year basis.

Wages of employees who are furloughed or face reduced hours as a result of their employers' closure or economic hardship are eligible for the credit. For employers with 100 or fewer full-time employees, all employee wages are eligible, regardless of whether an employee is furloughed. The credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in wages and compensation paid by the employer to an eligible employee. This credit is available through December 31, 2020.

- **Payroll Tax Payment Extensions:** This provision would allow taxpayers to defer paying the 6.2 percent employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Payroll taxes that can be deferred include the employer portion of Federal Insurance Contributions Act (FICA) taxes, the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate), and half of SECA tax ("self-employment tax") liability.
- **Immediate Expensing for Improving Qualified Improvement Property:** Currently, these costs are required to be depreciated over the 39-year life of the building. The CARES Act amends the 2017 Tax Law to allow the interior improvements of buildings to be:
 - a. Immediately expensed in the case of restaurant, retail, and most other property (classified as 15-year property), or;
 - b. Depreciated over 20 years in the case of a real property trade or business.

The CARES Act makes this change retroactive to the 2017 Tax Law, which means that companies could amend prior years' returns.

FEDERAL TAX PROVISIONS

- **Tax Credits for Employers for Coronavirus-Related Paid Leave:** This provision would authorize the U.S. Treasury to provide advance payment of tax credits that are available to private sector employers required to provide up to 12 weeks of coronavirus-related paid leave to those employees.
- **Single Employer Pension Plans:** This provision would delay the required quarterly contributions for 2020 for single employer pension plans to the end of the year. The provision would also allow plans to use 2019 funded status for purposes of determining funding-based limits on plan benefits for plan years that include 2020.
- **Modification of Net Operating Losses (NOLs):** NOLs rules allow taxpayers that experience losses to deduct those losses from past taxes paid (a “carryback”) thereby receiving a refund of those taxes, or to deduct from income earned in a future year (a “carry forward”). The CARES Act modifies current law primarily by:
 - a. Allowing taxpayers a five year carryback period for tax years beginning after December 31, 2017 and ending January 1, 2021 (calendar years 2018, 2019, and 2020), and;
 - b. Allowing taxpayers to use NOLs to fully offset taxable income (current law limits this to 80 percent) for tax years beginning after December 31, 2017 and ending January 1, 2021 (calendar years 2018, 2019, and 2020).
- **Modification of Limitation on Business Interest:** Current law allows businesses to deduct business interest up to the sum of the taxpayer’s business interest income for the tax year, 30 percent of the taxpayer’s adjusted taxable income (ATI) for the tax year, and the taxpayer’s floor plan financing for the tax year. The CARES Act allows businesses to elect to deduct up to 50 percent of business interest for 2019 and 2020 rather than 30 percent and allows a taxpayer to elect to use their ATI from either their last tax year (beginning in 2019) or their ATI in the 2020 tax year.