

## Stimulus Programs Available to the Ethanol Industry

K-Coe Isom has been closely tracking actions taken by the government to help alleviate the economic damage caused by the COVID-19 pandemic. We have been working with clients and assisting them in their efforts to identify programs and funds that best meet their specific needs. The following are programs that could potentially be used by businesses in the ethanol industry. If you have questions about any of these resources, please contact Donna Funk with KCoe Isom at [funk@kcoe.com](mailto:funk@kcoe.com)

### Paycheck Protection Program

The Paycheck Protection Program provides small businesses with funds to pay up to 8 weeks of payroll costs including benefits. Funds can also be used to pay interest on mortgages, rent, and utilities.

Funds are provided in the form of loans that will be fully forgiven when used for payroll costs, interest on mortgages, rent, and utilities (due to likely high subscription, at least 75% of the forgiven amount must have been used for payroll). Loan payments will also be deferred for six months. No collateral or personal guarantees are required. Neither the government nor lenders will charge small businesses any fees.

#### Eligible businesses

Small businesses with 500 or fewer employees are eligible. Ethanol manufacturers operating under NAICS 325193 can participate if they have 1,000 or fewer employees.

Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease.

The initial \$349 billion appropriated for the Paycheck Protection Program has been expended. On April 24, President Trump signed legislation to replenish the Paycheck Protection Program with an additional \$310 billion. If you did not apply for the Paycheck Protection Program previously it is important to have the necessary information to apply, it's first come, first serve.

If you did apply and receive funding through the Paycheck Protection Program, it is important to document and track how you have spent those funds.

### Economic Injury Disaster Loans

Economic Injury Disaster Loans (EIDLs) provide an emergency advance of up to \$10,000 to small businesses. EIDLs are lower interest loans of up to \$2 million, with principal and interest deferment at the Administrator's discretion, that are available to pay for expenses that could have been met had the disaster not occurred, including payroll and other operating expenses. Due to limitations on funding, the Small Business Administration has been limiting loan applications to \$25,000 (\$10,000 for the emergency advance plus an additional loan of \$15,000). Note that the \$10,000 emergency advance is a grant and not a loan.

### **Eligible Businesses**

Eligibility for the EIDL program is similar to eligibility standards for the PPP program. Previously, the Small Business Administration had been prohibiting “agricultural enterprises” from participating in the EIDL program except for small agricultural coops and a few other exceptions. KCoe Isom lobbied Congress to direct the SBA to open this program to all agricultural businesses with <500 employees (<1,000 employees for ethanol). The legislation that was approved by Congress and signed into law by President Donald Trump on April 24 included the requested change and the EIDL program is now open to agricultural producers.

### **Main Street Lending**

On April 9, the Federal Reserve took actions to provide up to \$2.3 trillion in loans to support the economy. This funding ensures credit flows to small and mid-sized businesses with the purchase of up to \$600 billion in loans through the Main Street Lending Program.

An eligible loan is an unsecured term loan made by an eligible lender(s) to an eligible borrower that was originated on or after April 8, 2020 and before September 30, 2020 (this date could be extended in the future), provided that the loan has the following features:

- 4 year maturity with payment of principal and interest deferred for the first year;
- Adjustable rate of Secured Overnight Financing Rate (SOFR) + 250-400 basis points (2.5-4%);
- Minimum loan size of \$1 million and a maximum loan size that is the lesser of \$25 million or an amount that, when added to the eligible borrower’s existing outstanding and committed but undrawn debt, does not exceed four times the eligible borrower’s 2019 earnings before interest, taxes, depreciation, and amortization (“EBITDA”);
- Borrowers will pay an eligible lender a fee of 100 basis points (1%) of the principal amount of the loan;
- Prepayment permitted without penalty; and
- Loan is NOT eligible for loan forgiveness.

### **Eligible Borrowers**

- Eligible borrowers are businesses with up to 10,000 employees OR up to \$2.5 billion in 2019 annual revenues;
- Each eligible borrower must be a business that is created or organized in the US with significant operations in and a majority of its employees based in the US; and
- Borrowers that have taken advantage of the Paycheck Protection Program may also receive a loan as part of the Main Street Lending program.

### **Borrower Required Attestations**

- Borrower must commit to refrain from using the proceeds of the eligible loan to repay other loan balances of equal or lower priority, with the exception of mandatory principal payments, unless the eligible borrower has first repaid the eligible loan in full.
- Borrower must attest that it will not seek to cancel or reduce any of its outstanding lines of credit with the eligible lender or any other lender.
- Borrower must attest that it requires financing due to the exigent circumstances presented by the coronavirus disease 2019 (“COVID-19”) pandemic, and that, using the proceeds of the upsized tranche of the eligible loan, it will make reasonable efforts to

maintain its payroll and retain its employees during the term of the upsized tranche of the eligible loan.

- Borrower must attest that it will follow compensation, dividend/capital distribution, and stock repurchase restrictions that apply to direct loan programs under the CARES Act.
- Borrowers must attest to other employment related provisions including to not outsource or offshore jobs for the repayment period plus 2 years, to not abrogate any existing collective bargaining agreements, and to be neutral in any union organizing effort during the term of the loan.

*\*Further details for completing or submitting applications for loans under the Main Street Program have not been released.*

### **Coronavirus Food Assistance Program**

On April 17, the United States Department of Agriculture (USDA) announced the Coronavirus Food Assistance Program (CFAP). This program is designed to support ag producers who have been impacted by the COVID-19 pandemic.

The Coronavirus Food Assistance Program uses funding and authorities provided in the Coronavirus Aid, Relief, and Economic Security Act (CARES), the Families First Coronavirus Response Act (FFCRA), and other USDA existing authorities.

The Coronavirus Food Assistance Program will provide \$16 billion in direct support based on actual losses for agricultural producers where prices and market supply chains have been impacted and will assist producers with additional adjustment and marketing costs resulting from lost demand and short-term oversupply for the 2020 marketing year caused by COVID-19.

USDA will provide \$16 billion in direct payments to farmers and ranchers including:

- \$9.6 billion for the livestock industry
  - \$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 crops producers
- \$500 million for others crops

*\*USDA is expediting the rule making process for the direct payment program and expects to begin sign-up for the new program in early May and to get payments out to producers by the end of May or early June.*

### **Payment**

Producers will receive a single payment determined using two calculations:

- Price losses that occurred January 1-April 15, 2020. Producers will be compensated for 85% of price loss during that period.
- Second part of the payment will be based on expected losses from April 15 through the next two quarters, and will cover 30% of expected losses.

### **Payment Limit**

The payment limit is \$125,000 per commodity with an overall limit of \$250,000 per individual or entity. Qualified commodities must have experienced a 5% price decrease between January and April.

### **Commodity Credit Corporation**

In the CARES Act, Congress appropriated \$14 billion to replenish the USDA's borrowing authority under the CCC, the primary funding source for most farm programs, including Agriculture Risk Coverage, Price Loss Coverage, the Livestock Forage Program and the Market Facilitation Program. The extra authority will support USDA's efforts to mitigate the long-term impacts of the COVID-19 outbreak on agriculture producers. While the parameters for this funding have not been announced, these funds could be used to assist the ethanol industry.

### **Payroll Tax Deferrals**

The Coronavirus, Aid, Relief and Economic Security Act (CARES Act) allows employers to defer the deposit and payment of the employer's share of Social Security taxes. The deferral applies to deposits and payments of the employer's share of Social Security tax that would otherwise be required to be made during the period beginning on March 27, 2020, and ending December 31, 2020.

All employers may defer the deposit and payment of the employer's share of Social Security tax. However, employers that received a Paycheck Protection Program loan may not defer the deposit and payment of the employer's share of Social Security tax that is otherwise due after the employer receives a decision from the lender that the loan was forgiven.

### **Employee Retention Credit**

The Employee Retention Credit is a fully refundable tax credit for employers equal to 50 percent of qualified wages (including allocable qualified health plan expenses) that Eligible Employers pay their employees. This Employee Retention Credit applies to qualified wages paid after March 12, 2020, and before January 1, 2021. The maximum amount of qualified wages taken into account with respect to each employee for all calendar quarters is \$10,000, so that the maximum credit for an Eligible Employer for qualified wages paid to any employee is \$5,000.

### **Additional Programs Income Tax Provisions**

There are some federal income tax provisions that everyone should be aware of and start to understand what benefits are available now or in the future. The changes include:

- Bonus depreciation on Qualified Improvement Property
- Net Operating Loss Carryback Periods
- Excess Business Losses
- Business Interest Expense Limitations

### **Additional Programs**

Congress has passed three stimulus bills and is working on the fourth package. We believe that this is a high likelihood that Congress will develop and pass a fifth stimulus bill in the coming months. KCoe Isom is monitoring developments in Washington, DC and is advocating for policies that benefit the ethanol industry and America's agricultural producers.

If you have any questions about your potential eligibility for these programs, please contact Donna Funk with KCoe Isom at [funk@kcoe.com](mailto:funk@kcoe.com)