

April 27, 2020

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Charles E. Schumer  
Minority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy:

On behalf of our nation's family farmers and ranchers, the undersigned organizations write to express concern with the tremendous strain the Coronavirus Disease (COVID-19) has placed on American agriculture. While most of our members' business enterprises have been deemed essential amid state stay-at-home orders and national social distancing guidelines, we have not been immune to labor issues, financial hardships, or regulatory uncertainty in these unprecedented times. We are immensely grateful for your leadership to bolster our sector through the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Paycheck Protection Program and Health Care Enhancement Act.

As you consider additional ways to minimize further disruption within the food, feed, fiber, fuel and other agricultural commodity supply chains, several issues remain with the Small Business Administration's (SBA) implementation of the Paycheck Protection Program (PPP) that has made it challenging for farmers and ranchers to participate. These barriers to entry explain why the agriculture, forestry, fishing, and hunting sectors combined received a meager 1.3 percent of the total approved funding and accounted for only 2.8 percent of approved PPP applications, according to SBA data. Additional funding for these critical programs is necessary and appreciated. However, several changes must be made for agriculture to fully participate in the SBA relief programs. We respectfully request your consideration the following:

**Expedite Approval of Small Business Administration Applications for Rural Lenders**

No agricultural commodity has been spared from downward price pressure in the wake of market shocks related to COVID-19. As a result, 2020 net farm income is expected to sharply decline as operating costs remain fixed and gross income falls. Expanded access to capital is crucial to ensure production agriculture can continue meeting retail grocery demand for millions of housebound Americans. However, most of agriculture's primary lenders—such as the Farm Credit System and rural community banks—have not historically administered SBA programs, which required them to submit applications to the SBA to become an eligible lender. Many have reported long delays in the approval process, which has held up the availability of capital for farmers and ranchers who need financing as quickly as possible. We ask that Congress continues applying pressure on SBA to process applications as expeditiously as possible so funds can be equitably distributed to rural America without further delay.

We applaud the newly established set-aside of SBA PPP funds for small size financial institutions; however, unlike commercial banks and credit unions, Farm Credit institutions are not eligible for this pool of funds. We believe it's important that Farm Credit have access to this

pool of funds and respectfully ask that this oversight be addressed in the next round of legislation.

### **Guidance for Agricultural Applicants**

The SBA recently issued guidance that clarifies that sole proprietors who file a Schedule F to report net farm profit are eligible to participate in PPP. While we welcome this clarification, the natural disasters of 2019 left many farmers and ranchers with zero net profits to report on Schedule F, thus making them ineligible for PPP. We ask that profits from farm equipment trades and breeding livestock that are reported on Form 4797 and other IRS forms to determine annual profits be included in that calculation of income.

### **Define “Primary Place of Residence” in SBA Statute**

Many agricultural commodities rely on foreign labor through temporary visa programs. Inconsistent interpretation of SBA regulations and underlying statutes has resulted in confusion about whether H-2A or H-2B wages are allowable uses of PPP dollars. The SBA released new FAQs, which include how lenders could interpret the definition for an employee’s “principal place of residence” for H-2A and H-2B workers. Unfortunately, this does not clarify if H-2A or H-2B wages qualify for PPP calculations. Instead the regulation offers factors to consider, some of which would indicate an H-2A worker’s principal residence is at the farm in the U.S., but some other factors would not qualify. We expect each lender to interpret these factors on a case-by-case basis, which unfortunately leaves the H-2A question at the status quo. We request that Primary Place of Residence be defined to clearly include H-2A guest workers, as many of these workers spend more than half the year in the United States.

### **Rent and Utilities**

The CARES Act states that PPP funds can be used for rent and utilities. Farmers and ranchers pay rent on a variety of business-related items including equipment, land, and other items. We believe that rent is inclusive of rental payments for all business-related items and should be an includable expense. In addition, we believe that producers should be able to include a broad range of utilities for any business-related item, including but not limited to the utility cost of guest worker housing.

### **Eligibility Cap for Agriculture**

Commercial and mid-sized agricultural operations are the backbone of the U.S. rural economy but many working families in rural America are being excluded from critical SBA emergency loan programs that could mean the difference between financial stability and financial ruin. Some of these family farms and downstream agricultural processing and merchandising entities employ over 500 individuals, which makes them ineligible to apply for much-needed capital available through SBA programs. Farms with more than 500 employees that did not qualify for loans under the SBA and find themselves with few/no borrowing options. Treasury Department restrictions make financial institutions like Farm Credit banks ineligible to participate in other lending programs like the Main Street Lending Program. Without access to financial capital, many businesses deemed essential, employing thousands of Americans around our country, could be forced to suspend operations or close entirely. A substantial increase in SBA’s eligibility cap for employees is essential for these family farms and agricultural processors to continue operating and paying their employees.

### **Authorize Agricultural Business Eligibility for Economic Injury Disaster Loans**

We are grateful to Congress for clearly stating that agriculture enterprises are eligible for the Economic Injury Disaster Loan (EIDL) program. Extending this program to agriculture

enterprises provides many agricultural producers a critical source of financing to help preserve their businesses and protects the nation's food supply after this pandemic is over. We will follow up should concerns arise as the SBA implements agriculture enterprises eligibility.

Thank you for your consideration of these critical concerns. We applaud your leadership and commitment to farmers and ranchers. We stand ready to work with you as our nation meets this unique challenge.

Sincerely,

Agricultural & Food Transporters Conference of ATA	National Council of Agricultural Employers
Agricultural Retailers Association	National Council of Farmer Cooperatives
American Farm Bureau Federation	National Milk Producers Federation
American Farmland Trust	National Onion Association
American Horse Council	National Peach Council
American Mushroom Institute	National Pork Producers Council
American Quarter Horse Association	National Potato Council
American Sheep Industry Association	National Sorghum Producers
American Soybean Association	National Turkey Federation
American Sugar Alliance	Panhandle Peanut Growers Association
AmericanHort	Produce Marketing Association
Farm Credit Council	Public Lands Council
Livestock Marketing Association	Southwest Council of Agribusiness
National Association of State Departments of Agriculture	U.S. Apple Association
National Association of Wheat Growers	United Egg Producers
National Cattlemen's Beef Association	US Rice Producers Association
National Corn Growers Association	US Sweet Potato Council
National Cotton Council	USA Farmers
	Western Growers
	Western Peanut Growers Association

CC: White House Council to Re-open America  
White House Coronavirus Task Force  
The Honorable Sonny Perdue, Secretary, U.S. Department of Agriculture  
The Honorable Steven T. Mnuchin, Secretary, Department of Treasury  
The Honorable Jovita Carranza, Administrator, Small Business Administration  
The Honorable Pat Roberts, Chairman, Senate Committee on Agriculture  
The Honorable Debbie Stabenow, Ranking Member, Senate Committee on Agriculture  
The Honorable Marco Rubio, Chairman, Senate Committee on Small Business  
The Honorable Ben Cardin, Ranking Member, Senate Committee on Small Business  
The Honorable Collin Peterson, Chairman, House Committee on Agriculture  
The Honorable Michael Conaway, Ranking Member, House Committee on Agriculture  
The Honorable Nydia Velazquez, Chairman, House Committee on Small Business  
The Honorable Steve Chabot, Ranking Member, House Committee on Small Business