

## Disaster COVID-19 Business Lending & State of VT Grants 1001 July 9, 2020

Business owners have some options for financial assistance available to apply to now, and others that will be available shortly.

**There can be no duplication of use of funds among all of these federal and state programs. Keeping very detailed records of your actions (as noted below) is paramount.** As these programs are defined and delivered, we will have an understanding of how the programs interrelate (work together in concert and impact each other). **At this point, we do not have complete information on that.**

Please note that changes from Disaster Lending 901 are highlighted in yellow. We also suggest re-reading the entire document each time.

### STATE FUNDING OPTIONS:

1. **Vermont Economic Recovery and Relief Package Phase One: Immediate Relief to Survive.**

**IMPORTANT: The APPLICATIONS ARE OPEN for the ACCD and the VT Tax Department – Please read the information below to determine which application is the right one for your business.**

We have provided the links to the four important steps from the ACCD that you SHOULD/MUST review before applying:

1. The overview of the program (this gives the basic information and requirements and is a MUST read):  
<https://accd.vermont.gov/covid-19/economic-recovery-grants>
2. A webinar slide deck of the overview of the programs (if after reading the basic description page you need more info this is a “should” read):  
<https://accd.vermont.gov/sites/accdnew/files/documents/economic-recovery-grants-overview-webinar-slides.pdf>
3. A guide for completing the ACCD application (This is a MUST read combined with the FAQ’s):  
<https://accd.vermont.gov/sites/accdnew/files/documents/Vermont-ACCD-Economic-Recovery-Grant-Application-Guide-v1.1.pdf>
4. The FAQ page is being updated constantly as the process continues (This is a MUST read with special emphasis on the required documents you MUST have completed as PDF’s that you will upload during the application process):  
<https://accd.vermont.gov/covid-19/economic-recovery-grants/faqs>

**Part One** of this Relief Package has been signed by Governor Scott. **It includes \$70 million for Emergency Economic Recovery Grants as described below.** The Agency of Commerce and Community Development and the Department of Taxes will work together to administer the grants:

- a) **The \$50 Million administered by the Vermont Department of Taxes** is for businesses that are primarily restaurants, bars, lodging properties and retail establishments that collect Rooms & Meals Tax and/or Sales & Use Tax and report on a monthly or quarterly basis to the Vermont Dept. of Taxes. (EXAMPLES: *restaurant, bar, hotel, inn, retail store, online*

retail, golf course, movie theater). **YOU MUST HAVE a 75% or greater LOSS to qualify for the \$50 Million in PART ONE.**

- b) **The \$20 Million administered by the ACCD** is for business that does not collect Rooms & Meals Tax and/or Sales & Use Tax, **OR** if your business reports to the Department of Taxes on these taxes for a minimal amount of your overall revenues. (*EXAMPLES: manufacturer, property management, construction, realtor*). **YOU MUST HAVE a 75% or greater LOSS to qualify for the \$20 Million in PART ONE.**

**Part Two of the Relief Package (H.966) has also been signed. It includes \$82 million in additional funding:**

- c) **An additional \$26 Million to the Vermont Dept. of Taxes. YOU MUST HAVE a 50% or greater LOSS to qualify for the \$26 Million in PART TWO.**
- d) **An additional \$56 Million to the ACCD. YOU MUST HAVE a 50% or greater LOSS to qualify for the \$56 Million in PART TWO.**
- e) **\$5 Million to Non-Profit Arts and Cultural Organizations** (examples: museum, theater, gallery, performing arts group) and these are applied for thru the ACCD application portal above.
- f) **\$1.5 Million to Outdoor Recreation Businesses** (examples: trail areas, climbing centers, bike tours) and these are applied for thru the ACCD application portal above.
- g) **\$5 Million to Women/Minority Businesses** and these are applied for thru the ACCD application portal above.
- i) Also note that in this case the number of employees required for this group only is 0-5.

**Application portal for the GRANTS:**

<https://vermont.force.com/economicrecovery/s/accd-register>

Please note that you can enter both applications (ACCD and the VT Dept. of Taxes) via this portal. The beginning of the application is a short series of questions that helps you decide which application is right for you. If you should be in the VT Dept. of Taxes program it provides a link and if you should “stay” in the ACCD program you simply continue.

**IMPORANT: The Chat Box** on the ACCD site is a very effective way to ask questions both before you enter the application or during the application process. They are responding very quickly if you are within the posted hours of operation. Also you can call the **hotline** at 802-828-1200 from 8:00am to 5:00pm Monday through Friday and from 9:00am to 2:00pm on Saturday.

We are providing the following additional information (but we are **NOT** repeating information provided in the above four links):

They share basic eligibility criteria with exceptions noted:

An eligible business will be a nonpublic, private organization that:

- a. Is domiciled or has its primary place of business in Vermont.
- b. Has **one or more non-owner employees** in Vermont.
  - i. **Exception is for Women/Minority Owned Businesses** (for which \$5 Million has been earmarked in Part Two) these business categories can be single owners with no employees.
- c. Was open and active before February 15, 2020.

- d. Is open at the time of application, or is required to have closed due to COVID-19 restrictions but can certify to its intention to re-open when the COVID-19 restrictions are lifted.
- e. Has experienced a drop in revenue of at least 75% or greater drop for Part One and an at least 50% drop for Part Two in any one-month period from March 1, 2020 to August 31, 2020, when compared with the same month in 2019.
- f. Is not currently in Chapter 7 bankruptcy.
- g. Is in good standing with the Vermont Department of Taxes.
- h. Is in good standing with the Vermont Secretary of State.
- i. Has not received a Vermont Emergency Economic Recovery Grant from the Department of Taxes or Agency of Agriculture, Food and Markets.

2) Additional general comments/important notes:

- a) There will only be one grant allowed per applicant.
- b) All grant recipients names and amounts will be public.
- c) All grant proceeds are taxable income.
- d) Prepare all of the following documents and make sure you have saved them as PDF's (if you do not have PDF's the application process will not accept any other format):
  - (1) 2019 income statement broken down by month
  - (2) 2020 income statement broken down by month
  - (3) 2019 federal tax return
  - (4) 2019 Vermont state tax return
- e) Note: In both applications the loss calculation (of 75% or 50%) must be based on actual months (thru June currently) and not for projected losses.
- f) Although you should have all the above documents prepared the VT Tax Dept. the application is pre-filled with your past tax reporting and the application is based on those numbers and you may not be asked for the prepared list of documents.
- g) You should make sure that your business name is consistent with your state and federal tax documents (for example if you use LLC after your name on your tax filings make sure you use the LLC in the application).
- h) File all of your sales and use and meals and rooms tax returns through the April 30, 2020, period. April returns were due May 25, 2020. We also encourage filing your May 31, 2020, period returns that are due June 25, 2020. The Department of Taxes will be using the data from these Tax returns to verify a 50% or greater drop in total sales subject to these taxes, which is a requirement to qualify for a grant. **If you have not filed all of these required returns, you may be deemed ineligible for the grant.**
- i) Make sure you screen shot as a record as you fill out the application.
- j) Make sure you keep your user name and password!
- k) If you want to login to your application here is the link:  
<https://vermont.force.com/economicrecovery/s/login/>

3) There are also sector specific grant opportunities that will be opening in the next few weeks. If you are in one of these sectors these may be more tailored to your needs. And again, only one grant per business so if you have already received a VT Economic Recovery Grant then these will not be available to you.

- a) Please note we have no dates for the opening of these programs:
  - i) **Agricultural producers and processors** may apply for funding through the Agency of Agriculture, Food and Markets (AAFM). AAFM will be providing \$25 million to dairy producers and processors, \$5 million to **non-dairy agricultural producers**, \$500,000 to **agricultural fairs**, and at least \$2 million to **agricultural organizations** through the Working Lands Enterprise Board. Information about applying for these grants is

available at <https://agriculture.vermont.gov/vermont-covid-agriculture-assistance-program>.

- ii) **Forestry** businesses, including those primarily engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing forest or wood products derived from Vermont forests, including consulting forestry services and secondary manufacturers of **wood products**, should apply for the \$5 million Forest Economy Stabilization Program administered by the Department of Forests, Parks and Recreation. Information about applying for these grants is available at <https://fpr.vermont.gov/FESGrantProgram>.
- iii) **Healthcare Providers** should apply for funding through the Agency of Human Services (AHS). AHS is administering a \$275 million Health Care Provider Stabilization Grant Program for a broad array of healthcare providers including: hospitals, private medical practices, dentists, health centers, laboratory and imaging centers, mental health providers, substance abuse disorder treatment providers, emergency medical service and ambulance providers, physical therapists, podiatrist, optometrists, chiropractors, and other health care providers licensed by the Board of Medical Practice or the Office of Professional Regulation. This also includes home health and hospice agencies, pharmacy services, and long-term care providers. AHS is targeting the week of July 13th to open its application portal. Providers will have until August 15, 2020 to submit applications for funding. Funding will be allocated based on need, to the extent that funds are available. Organizations can learn more about this program online at <https://humanservices.vermont.gov/>.
- iv) **Childcare Providers, Summer Camps, and After School Programs** should apply for funding through the Agency of Human Services (AHS). AHS received \$12 million to provide additional restart grants and other costs to childcare providers, summer camps and after school programs. Organizations should apply online at <https://dcf.vermont.gov/cdd>.

## **FEDERAL PROGRAMS, due to the passage of the CARES Act:**

### **IMPORTANT THE SBA HAS RE-OPENED THE EIDL/EIDLEA APPLICATION PROCESS TO ALL ELLIGIBLE BUSINESSES**

#### **Current statement (6/15/20) from the SBA:**

- To further meet the needs of U.S. small businesses and non-profits, the U.S. Small Business Administration reopened the [Economic Injury Disaster Loan \(EIDL\) and EIDL Advance program portal](#) to **all eligible applicants** experiencing economic impacts due to COVID-19 today.

***Apply for directly via the SBA portal*** (Follow the instructions below on how to complete and the information you will need to apply):

<https://covid19relief.sba.gov/#/>

(Note there are now many scammers on line so **only** use this site)

#### **ALERT:**

Urgent alert for our clients and contacts: If you are contacted by phone, fax, email or mail asking for additional financials to support your EIDL application, that person **MUST** have your

application/confirmation number as evidence that they are from the SBA. Unfortunately, we are learning of entities and individuals posing as SBA affiliates and we want you to please be mindful. Learn more at:

<https://www.consumer.ftc.gov/blog/2020/04/new-funding-coronavirus-sba-loans-attracts-scammers>

## 1) Economic Injury:

The SBA INJURY Response has two components:

- i) **The Economic Injury Disaster Loan (EIDL) available through December 31, 2020;** this is a low interest, long-term loan.
  - (1) **Step One in this process is to complete the EIDL Streamlined Application on line which allows you access to the Advance portion, the EIDLEA (see above link if you have NOT already applied).**
    - (a) SBA has provided us with the information that the EIDLEA is figured on the calculation of \$1,000 per employee up to 10 employees.
    - (b) **IMPORTANT:** Please note: As a sole proprietor or LLC owner(s) that take an owners draw, you are allowed to count yourself as an employee for this streamlined application.
    - (c) To be considered for an advance “up to \$10,000” a business needs to complete the streamlined EIDL application and (toward the end of that application) should check the box “to be considered” for this advance. **You must check this box.**
    - (d) You will be asked for the ‘Business legal name and tradename’ if you are an individual using a tradename (i.e. John Smith DBA Smiths plumbing), you must put the name on the 1<sup>st</sup> line of your bank statement (not your checks). In this example that would be John Smith
    - (e) The only financial info needed is:
      - (i) A calculation of Gross Revenues for period 2/1/19 – 1/31/20 or 2019 tax info.
      - (ii) A calculation of COGS (Cost of Goods Sold) for the same period (if applicable), if you don’t have it, put '0’.
      - (iii) If you are a non-profit you will also need Operating Costs for the same period.
      - (iv) If your application is for lost rents, put the dollar amount of rents already lost as a result of the disaster.
      - (v) Note: there is a box at the top of the agent/owner page that asks if you are owned by an entity. If this box is not checked you cannot proceed past this page. Unless you are owned by another company/business then you check no.
      - (vi) You will also certify to some basic questions about your business and personal situation and that you have represented the information truthfully.
    - (f) At this point you will be asked for your BANKING Info:
      - (i) Bank Name
      - (ii) Account Number
      - (iii) Routing Number
- (2) Once you have completed the application you will have a chance to review.

- (3) Once you hit submit you will be given a confirmation page with an application number. Print this page and screen shot it. Do not lose this number.
    - (a) And begin a file of all the material regarding this process, including any information you provided and the application numbers you received from the SBA (put the application number on the inside of the folder).
  - (4) If you have already completed an EIDL application before 3/30 you will have to RE-APPLY for the advance option. This is regardless of whether you have received a denial.
    - (i) You should have received notice of this.
    - (ii) You need to have all of the information above prepared.
  - (5) According to SBA, the advance does not need to be paid back under any circumstances. And if you decide not to take the loan you may keep the advance UNLESS you also have done or are considering applying for the PPP. In that case the EIDLEA is an ADVANCE...see information below in the PPP section.
- ii) If you have not received your EIDLEA please check your application number:
- (1) If it begins with a #3 you are in the queue and your advance is in process.
  - (2) If it begins with a #2 that indicates there is a problem with the application and you should call the hotline @ 800-659-2955 to resolve any issues. The issues are most likely regarding entry errors in your application and can be easily resolved.

iii) **Once you have received your EIDLEA you will be contacted by the SBA with the next steps.**

Please note: the application process for the EIDL has fundamentally changed to a sliding scale offered loan amount without any additional documentation required. This is completely different from the original process of an EIDL application.

- (a) **Once the EIDLEA \$ appears in your bank account** (and you will **not** be notified that the EIDLEA \$ has been disbursed so check your bank statement frequently, and look for a deposit notation with 'SBA' in the name), **you should, within 7-10 days receive an email from the SBA that asks you to "Create your SBA Economic Injury Disaster Loan Portal Account"**.
- (b) Do not lose the account information that you create. Add this new portal password to your EIDL folder. You will need it to track the progress of your application.
- (c) **PLEASE CHECK YOUR SPAM FOLDER frequently.** Many businesses have reported that the email for creating the account has been landing in Spam folders instead of the main inbox.
- (d) Once the portal is created you will see the sliding scale range of loan that you have been offered.
  - (i) Remember that this is a loan...not a grant. So consider carefully if you want to accept any amount on the sliding scale that has been offered.
    - a. We suggest you use the COVID-19 Recovery Roadmap Debt Assessment which is a self-guided debt calculator to make sure you choose the correct amount for your business:  
<https://www.vtsbdc.org/finances-and-financial-planning/>
    - b. Below the scale, as you move it, you can see the monthly payment amount. This is helpful in your assessment of what level of debt you are willing to acquire.

- c. VtSBDC advisors can also provide assistance on how to evaluate your offered loan amount and whether it is the right choice for your business.
  - d. We suggest that you take a screen shot of each page during the process as you move through the application.
- (e) Note that any loan over \$25,000 will require collateral.
- (i) In order for SBA to take collateral, a Uniform Commercial Code lien must be filed. SBA will deduct a \$100 this filing fee from the loan amount for this purpose. This is done for borrower's convenience and allows us to disburse the funds faster.
  - (ii) SBA takes real estate as collateral when it is available.
  - (iii) SBA will not decline a loan for lack of collateral, but SBA will require the borrower to pledge collateral that is available.
- (f) Note that the loan closing documents for this loan are complex. Review them carefully before you sign them.
- (g) Also note that the EIDL is, according to the SBA, a loan which cannot be discharged by either business or personal bankruptcy.
- (h) This is the list of permitted and non-permitted uses of EIDL funds:
- (i) **Permitted Uses:**
    - 1. Working Capital Uses
      - a. Accounts Payable
      - b. Inventory
      - c. Supplies and materials
      - d. Operating Expenses that would have been met prior to the crisis
      - e. Pay short term debt used in anticipation of disaster loan funding
      - f. **After PPP \$ Spent or all the time if no PPP:**
        - i. Payroll Expenses
        - ii. Rent
        - iii. Utilities
        - iv. Interest on Debt
    - 2. **Non-Permitted Use of Funds:**
      - a. Payment of any dividends or bonuses;
      - b. Disbursements to owners, partners, officers, directors, or stockholders, except when directly related to performance of services for the benefit of the applicant;
      - c. Repayment of stockholder/principal loans, except when the funds were injected on an interim basis as a result of the disaster and non-repayment would cause undue hardship to the stockholder/principal;
      - d. Expansion of facilities or acquisition of fixed assets;
      - e. Repair or replacement of physical damages;
      - f. Refinancing long term debt;
      - g. Paying down (including regular installment payments) or paying off loans provided, or owned by another Federal agency (including SBA) or a Small Business Investment Company licensed under the Small Business Investment Act. Federal Deposit Insurance Corporation (FDIC) is not considered a Federal agency for this purpose;

- h. Payment of any part of a direct Federal debt, (including SBA loans) except IRS obligations.
  - i. If a direct Federal debt is delinquent, your recommendation must be based on independent documentation from the appropriate Federal agency explaining how the delinquency will be cured.
  - ii. If a direct Federal debt is delinquent because of the disaster, we should make arrangements with that Federal creditor to have payments deferred on a similar action taken to bring the delinquency current prior to the approval of an EIDL. If the Federal creditor cannot or will not cooperate, the likely result will be a decline of the EIDL request. However, if the applicant has other resources or recoveries, we should generally allow (and perhaps require) those resources to be applied first to ineligible needs, such as payment of direct Federal debt.
  - iii. When processing during the injury period, it is generally appropriate for you to negotiate with Federal creditors to defer payments (or take similar action) until the end of the injury period. You must document why this was or was not imposed.
- i. Pay any penalty resulting from noncompliance with a law, regulation or order of a Federal, state, regional, or local agency.
- j. Contractor malfeasance
- k. Relocation.

**ii. VERY IMPORTANT: EIDL funds can be used to reimburse short term debt that was incurred while waiting for disaster assistance. Normal ongoing business expenses and debts incurred starting January 31, 2020 going forward until the disaster has been declared over, are eligible to be paid with EIDL money.**

- (i) You have **10 DAYS** to complete the steps required to submit your loan application request (all of the steps required by the portal) according to robo-calls coming from the SBA.
  - (i) Once you have submitted the loan amount for processing you will be told that the loan is being processed.
  - (ii) Once the loan is approved you will be provided with closing documents to sign.
- (j) We have been told by clients who believe the amount they were offered at the highest end of the sliding scale (capped at \$150,000) does not reflect their business's needs and have been able to enter into a process called "reconsideration":
  - (i) To begin that process email: [PDC.Reconsideration@sba.gov](mailto:PDC.Reconsideration@sba.gov)
  - (ii) This process will require additional documentation and clear instructions will be provided by the loan officer you are assigned.
- (k) Please note: the ODA (Office of Disaster Assistance) is currently contacting businesses who **DID NOT check the box for the EIDL Advance (EIDLEA)** as part of their original application and so therefore have not yet received their advance monies. The email is being sent to two categories of businesses: 1. if

you have been declined an EIDL. And 2. if you declined the sliding scale offer because you did not want the loan. This alerts you that unless you respond (to decline) within three days of the email they will automatically make a deposit into your bank based on the information on the number of employees you stated in the original application:

- (1) If you have received a denial rather than an offered amount you can contact the VT SBA for details on the process of how to have the loan denial reviewed.  
<https://www.sba.gov/sites/default/files/files/vermont-district-office-directory.pdf>

## 2) The Paycheck Protection Program (PPP):

**The application deadline of the PPP has been extended to August 8, 2020.**

**The PPPFA first Interim Final Report (IFR) was issued 6/11/20. As a result, we have made changes and additions to the material that follows.**

Here is the link to that IFR:

<https://home.treasury.gov/system/files/136/PPP-IFR-Revisions-to-First-Interim-Final-Rule.pdf>

**A second IFR was issued on 6/22/20. Here is the link:**

<https://home.treasury.gov/system/files/136/PPP--IFR--Revisions-to-Loan-Forgiveness-Interim-Final-Rule-and-SBA-Loan-Review-Procedures-Interim-Final-Rule.pdf>

**A Third IFR was issued on 6/24/20. Here is the link:**

<https://home.treasury.gov/system/files/136/PPP--IFR--Additional-Eligibility-Revisions-to-First-Interim-Final-Rule.pdf>

**A Fourth IFR was issued on 6/25/20. Here is the link:**

<https://home.treasury.gov/system/files/136/PPP--IFR--Certain-Eligible-Payroll-Costs.pdf>

**Please note: Although TWO Applications for Forgiveness (see more information below) have been issued we continue to suggest that businesses who have reached the end of their 8 week PPP use of funds wait until the full guidance has been received by the banks from the SBA. Remember that a business has 10 months from the end of their covered period (8 or 24 weeks from the date they received the loan money) so there is more than enough time to wait for the full guidance and rules so that maximum forgiveness is possible.**

**We have requested training on the forgiveness process in order to advise you on both of the applications and their implications for your business.**

**The PPPFA is as follows (and we will note where we have asked for/or expect further clarification. The IFR dated 6/11 notes that such guidance will be coming):**

- a) **Extended Term from 2 years to 5 years: This is NOT retroactive.** For any new loans applied for on or after 6/5 the term for repaying the non-forgiven amount is now 5 years.

- i) For those loans applied for before 6/5 the term remains 2 years with the following language in the IFR: “For loans made before June 5, 2020, the maturity is two years; however, borrowers and lenders may mutually agree to extend the maturity of such loans to five years.”
- b) Extended forgiveness period (use of funds) from 8 weeks to 24 weeks.**
  - i) Note that the period for use of funds **STILL** begins when the loan money is deposited in your bank.
  - ii) And the IFR allows businesses that are close to the end of their covered period to still choose the 8 week period for their forgiveness calculations.
- c) Extended Coverage period from 2/15/20 to 12/31/20:**
  - i) This specifically applies to the two Safe Harbors that were described in the previous loan forgiveness process:
    - (1) Safe Harbor # 1: Maintains forgiveness amounts for companies that document their ability to rehire workers (or find suitable replacements) by the end of the year.
    - (2) Safe Harbor # 2: And companies would be covered under separately if they can show they couldn't resume business levels from before 2/15 because they were following federal requirements for sanitization or social distancing.
- d) Application for forgiveness must be done within 10 months of a business's loan forgiveness period** (therefore 10 months from the date the money was deposited into your account which began your period).
  - i) No payments are required until the loan forgiveness process is completed and the bank has been reimbursed by the SBA for the forgiven portion. At that point the bank will notify you of your unforgiven balance and the date of your first payment.
    - (1) Note this extends the original deferment of 6 months.
  - ii) **IMPORTANT NOTE: if you have received an EIDLEA amount (up to \$10,000) and if it has not already been subtracted from the PPP loan amount it WILL BE ADDED to the UNFORGIVEN portion of your PPP loan.**
    - (1) We are suggesting saving the EIDLEA monies so that you can pre-pay at the point the bank notifies you of the unforgiven portion so you do not have to pay the money back with interest.
- e) The SPLIT of use of funds to 60%/40%:**
  - i) Payroll can now account for 60% of funds (versus 75% previously) and 40% for allowable expenses for the same coverage period.
    - (1) The definition of allowable expenses has not changed.
    - (2) Note that the 60% is NOT a threshold for use of the funds but if a company spends less than 60% on payroll it will reduce forgiveness (though by what calculation will not be known until all of the guidance has been published).
    - (3) The IFR dated 6/11 contains the following language about misuse of funds:
 

“The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments; **I understand that if the funds are knowingly used for unauthorized purposes, the Federal Government may hold me legally liable such as for charges of fraud.**”

#### **PPP Loan Forgiveness Applications:**

**And note that the banks have not received the rules and guidance from the SBA so they are NOT currently accepting PPP Loan Forgiveness Applications.**

**f) The 3508EZ (the short form):**

i) Here is the link to form:

<https://www.sba.gov/document/sba-form-paycheck-protection-program-ez-loan-forgiveness-application-6-16-2020>

ii) Here is the link to the instructions:

<https://www.sba.gov/document/sba-form-paycheck-protection-program-ez-loan-forgiveness-application-instructions-borrowers-6-16-2020>

iii) There are three conditions under which you can elect to use the EZ form. You must be able to check one of these boxes:

(1) The Borrower is a self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483).

(2) This one has two conditions. You must be able to say yes to both of them:

(a) The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, “employees” means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

(b) **AND** The Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. (Ignore reductions that arose from an inability to rehire individuals who were employees on February 15, 2020 if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020. Also ignore reductions in an employee’s hours that the Borrower offered to restore and the employee refused.

(3) This one has two conditions. You must be able to say yes to both of them:

(a) The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, “employees” means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

(b) **AND** The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

(i) Please note that one of the newest IFR’s does clarify that State orders on closing and re-opening sectors are acceptable documentation for proving that a business was unable to operate at pre-COVID levels.

**g) The 3508 (the long form):**

i) Here is the link to form:

<https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>

ii) Here is a link to the instructions:

[https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Instructions\\_1\\_0.pdf](https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Instructions_1_0.pdf)

iii) The long form is still waiting additional clarification from both Treasury and the SBA.

**If YOU ARE CONSIDERING APPLYING: Contact your bank if you are interested in applying. And make sure you review the forgiveness application (info below) with the bank as you evaluate whether this is the right vehicle for your business.**

h) **Use this website to locate an SBA lender in your area.** Note that some banks are choosing to work with only their existing customers.

<https://www.sba.gov/paycheckprotection/find>

i) The SBA released its PPP Compliance Requirements on 4.21. Please read these before you consider applying for the PPP. And note that these should now be reviewed with your banker in relationship to the forgiveness application. As an example the REFERENCE period you use to create your base application numbers of FTE's and monthly compensation are used in relationship to the newly defined COVERED period used to compute forgiveness.

<https://content.govdelivery.com/accounts/USSBA/bulletins/28795f8>.

j) The Treasury Department released on 4.24.20 a document entitled PPP: How to Calculate Maximum Loan Amounts – By Business Type. We have linked here. This is a very important document for you to read:

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

k) NOTE there has been a change in the time frame used by a seasonal business to calculate the PPP loan amount. This information was released in the Interim Final Report release by the Department of the Treasury on 4/29/20.

i) The report reads: "...a seasonal employer may determine its maximum loan amount for purposes of the PPP by reference to the employer's average total monthly payments for payroll "the 12-week period beginning February 15, 2019, or at the election of the eligible [borrower], March 1, 2019, and ending June 30, 2019."

**(1) The 12-week period is used only for determining the loan amount. The funds still need to be used in the 8 (now 24) weeks following disbursement.**

<https://home.treasury.gov/system/files/136/Interim-Final-Rule-Additional-Criterion-for-Seasonal-Employers.pdf>

l) The best way to proceed on the PPP application process is to contact your bank and get the SBA Application and the additional list of requirements. Requirements vary slightly bank to bank, but items on the list below are consistent across the banks who have shared their requirements with us to date (but note this is a partial list, so talk with your bank and prepare accordingly):

i) Certificate of Good Standing for your business.

ii) Articles of Incorporation (and some banks are also requesting Operating Agreements and Bylaws.

iii) The Drivers Licenses or Passports of all owners of 20% or more of the business.

iv) All tax documentation on Employee Costs for 2019. See your bank for the exact documents they need. Note: this is for paid employees and 1099 personnel only and not independent contractors (who will be allowed to apply themselves).

- v) Sole Proprietors and LLC Owners will need to provide proof of compensation. Again see each bank for how and what they require for documentation.
- vi) Verification of number of employees on 2/15/20.
  - (1) And verification that these employees live in the US.
- vii) Most banks are providing a link to the full set of instructions from the Treasury Department if you would like to see the fine print. Or go here:  
<https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>
- m) The loan terms are:
  - i) 60 months at 1%.
  - ii) Loan proceeds covers payroll expenses for 24 weeks for employees maintained at the level of employment pre-COVID or returned to work immediately after the loan is made.
    - (1) This includes payroll, state and local taxes, and benefits. But again, make sure you are giving the bank all the payroll verification they require and they will tell you the amount they can use as the basis for the calculation.
    - (2) The loan also covers mortgage interest (not principal), rent and utilities for the 24 weeks of the loan.
- n) Loan forgiveness is part of the language of this program. Please note that the process is **NOT** automatic. **Please see the Forgiveness section above for more details.** Once you have taken the loan and paid your employees and the expenses allowed, then you request forgiveness from the bank.
- o) 100% pristine and accurate reporting for the 24 weeks of how you spent the loan money will be important in the forgiveness process.
- p) According to the US Department of the Treasury the 24 weeks that will be considered for forgiveness **begins on the date** the lender makes the first disbursement of the PPP loan to the borrower (and the lender must make the first disbursement of the loan no later than 10 calendar days from the date of loan approval).
  - (1) For clarification on the question about bringing employees back and its impact on forgiveness here is Question 20 from the FAQ from the Treasury Department:  
Question 20: The amount of forgiveness of a PPP loan depends on the borrower's payroll costs over an eight-week period (**now 24 week**); when does that eight-week period (**now 24 week**) begin?  
Answer: The eight-week (**now 24 week**) period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.  
Here is the link to the FAQ on the PPP from the Treasury (this link is to the most recent version dated 5.19.20):  
<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>
- q) For those who receive an EIDLEA (advance) the amount of the EIDLEA will be subtracted from the amount forgiven thereby adding it to the unforgiven portion. It will need to be paid back.
- r) A frequently asked question is: what happens if my business receives the PPP and an employee does not want to return to work for reasons not related to COVID-19 (having or caring for someone with the virus). The VT DOL has now provided very specific instructions on handling this situation. These guidelines (including the exchange between employer and employee being fully documented and the employer filing a report with the

VTDOL) become crucial in the loan forgiveness process and specifically address one of the safe harbors.

<https://labor.vermont.gov/unemployment-insurance/refusal-return-work-covid-19>

s) Our current advice on the PPP is to **speak with your banks**. Determine the amount that you could be eligible for and then compute the dollar amount of the payments you will be required to make on the debt. Assess if you could afford that debt if it were not forgiven. To us, at this point, we feel this is the most responsible calculation to make.

i) This calculation should include both the term of the loan repayment plus some determination of where you think your business will be in terms of revenue as you open post-COVID. We know the PPP as a recovery vehicle will vary industry to industry.

Once approved, and before accepting the funds, VtSBDC advisors can provide assistance on how to evaluate whether or not to accept the money.

*Also the Pandemic Unemployment Assistance (PUA) is now open for small business owners (including self-employed contractors) who are not eligible for unemployment thru the State of VT unemployment system. For information, eligibility requirements and instructions:*

<https://labor.vermont.gov/PUA>

### **Families First Coronavirus Response Act (FFCRA)**

Employers with fewer than 500 employees are obligated to offer FFCRA to eligible employees *regardless* of the various sources of funding sources available to employers for payroll. For example, employers may opt to use the PPP to fund payroll. This is a funding source, not a source of job protection for an employee.

Employers should still offer and implement FFCRA to start the FFCRA "clock ticking down" to track the time used by the employee. Not implementing FFCRA won't remove an employer's obligation to offer FFCRA at future date (prior to 12/31/2020) should the employee have another COVID-19 related situation, which makes him/her eligible for FFCRA again.

Employers are responsible for implementing leave for eligible employees. Employees don't necessarily have to ask for FFCRA and often don't know this. Failure to offer FFCRA to eligible employees could result in penalties.

This is just a snap shot and certainly not a legal opinion. For more information, please refer to the link:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

*Also related to your payroll considerations, two new refundable Payroll tax credits have been announced that reimburse small businesses dollar for dollar for the cost of providing COVID-19 related leave:*

1) Deferral of Employer-side FICA Payroll Taxes - Can defer the employer portion of FICA 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.

- 2) **Retention Tax Credit** - Adds a tax credit for employers to encourage businesses to keep workers on payroll during the crisis. The IRS now has a one page explanation (link below). Please see your accountant to discuss if this is applicable to your business.  
<https://www.irs.gov/newsroom/irs-employee-retention-credit-available-for-many-businesses-financially-impacted-by-covid-19>

*We expect more details from VT banks and the SBA on these loans:*

- 3) **Main Street Lending Program** is designed for businesses that were in a solid financial position pre-COVID. There are three different loan vehicles within the program that fit differing business lending needs. Contact your local bank to see if they have enrolled in the program and for descriptions of the loan options. Please note that not all banks are electing to be part of the program.
- 4) **Debt Relief Programs**  
This is a group of SBA loan vehicles that will be accessed through SBA approved lenders in Vermont. These include:
- a) **The Small Business Debt Relief Program** covers the SBA 7a, 504 and Microloan Program. These loans can be used for short and long-term working capital. We have the following additional information on these programs:
- i) The SBA will automatically pay the principal, interest, and fees of current 7(a), 504, and microloans for a period of six months.
  - ii) The SBA will also automatically pay the principal, interest, and fees of new 7(a), 504, and microloans issued prior to September 27, 2020.
  - iii) For current SBA Serviced Disaster (Home and Business) Loans: If your disaster loan was in “regular servicing” status on March 1, 2020, the SBA is providing automatic deferments through December 31, 2020. Note these refer to other EIDL programs that have been accessible post previous disasters (Tropical Storm Irene being one).
- b) **The SBA Express Bridge Loan (EBL) Pilot Program** allows small businesses that currently have a relationship with an SBA Express Lender to access up to \$25,000. These loans can help small businesses overcome the temporary loss of revenue they are experiencing and can be a term loan or used to bridge the gap while applying and waiting for a direct SBA Economic Injury Disaster loan.
- i) Given the high volume of PPP applications that banks are processing we have not been made aware of any banks that are processing this loan at the moment. But you can certainly request information from your lender.
  - ii) A couple of things to note about this loan:
    - (1) You must be able to prove that you cannot borrow this money elsewhere.
    - (2) It is a fundamental of the EBL program that you must have an existing relationship with the bank in order to access this loan.
    - (3) And if you do get an EIDL the proceeds must be used to pay this back in full or part.

Some local lending is now coming on line and more will be coming in the next couple of weeks as RDC’s and Towns work to re-orient their current lending programs to address the disaster. These will be smaller amounts that should be seen primarily as bridge loans while applications for the above are in process. And any loan/grant you receive for COVID-19 will, if you proceed with the full EIDL application, be subtracted (mitigated) from the final amount.

Here is a link to the RDC's if you would like to contact them regarding their loan options:

<https://accd.vermont.gov/economic-development/resources/rdc>

**As part of your preparation to apply for any loan/financing option, you should make sure you take two steps:**

**1) You should first determine what your business recovery looks like. Including an assessment of when or if to re-open. We have provided a self-guided COVID-19 Recovery Roadmap (it is a third of the way down on this page):**

<https://www.vtsbdc.org/coronavirus/>

**2) Gathering the financial documents required to complete the Roadmap will bring you closer to being prepared to complete any and all applications for funding. In the meantime it is always important to have:**

1. A list (diary or narrative) of actions that you have taken in response to COVID-19, and direct impact you have seen. For example: 3/17/20 "laid off 2 employees" {names, # of hours typically worked and pay rate} and directed them to unemployment and then if you offer them a return to work date {with the date}. This list will help identify economic impact.
2. Have the following financial records up to date:
  - a. Profit and Loss
  - b. Balance Statement
  - c. Sales records for 2019 and 2020 to date (this should come from QuickBooks or your POS or whatever system you use to capture daily income). Showing the actual impact on revenues is the basis of economic impact lending.
  - d. Three years of completed tax returns (personal and business). If 2019 is not complete, then a 2019 Profit & Loss Statement.
  - e. Up to date Accounts Payable.
  - f. Up to date Accounts Receivable.
  - g. An up to date list of your collateral (including your personal real estate) with item description and current replacement value.

Business assistance will continue to be provided by and available from VtSBDC ([vtsbdc.org](https://www.vtsbdc.org)) and the Regional Development Corporation in your region.