



# MONTANA BOARD OF INVESTMENTS

## Montana Working Capital Program

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Last updated: October 7, 2020

### Continuing Guidance for the Montana Working Capital Program

This document has been created to provide additional guidance into the process of applying for and receiving funds from the Montana Working Capital Assistance Program. It is updated frequently with answers to questions and responses to concerns.

### Purpose

The Montana Working Capital Assistance Program was designed to aid Montana business that were negatively impacted by the COVID-19 pandemic. The Program is facilitated by Montana banks, credit unions, and lending institutions in partnership with the State of Montana. Coronavirus Relief Funds (CRF) will be used to cover 35% of a working capital loan.

### Eligibility

All Borrowers must meet the following criteria to be eligible to receive Montana Working Capital Program funding. Information will be verified in part by the Lender, Montana Board of Investments (MBOI), Montana Department of Revenue (DOR), and other assisting agencies.

**The Lender must be an approved Lender with MBOI.**

#### Eligibility Criteria:

1. The loan requesting assistance must be a commercial loan to a Montana business;
  - a. Commercial loans are those determined by the bank to comply with Federal Deposit Insurance Corporation (FDIC) regulations. Please see Part 4 of the [Schedule RC-C – Loans and Lease Financing Receivables](#) for guidance. Questions about FDIC definitions should be directed to the FDIC. [Updated September 17, 2020]
2. The Borrower must have been no more than 30 days past due as of December 31, 2019, with the originating Lender;
3. The Borrower must be current on all other State financial obligations (i.e. income tax, property tax, payroll tax, workers comp., child support, etc.);
4. The Borrower must be in good standing with the Montana Secretary of State;
5. The Borrower's business cannot be publicly traded;
6. The Borrower must not have access to 12 months of working capital from any other sources;

"Reasonable access" means assets held by the owners, guarantors, partnerships, affiliates or entities and which:

- a. Does not require liquidation of real or personal property;
- b. Does not include accounts, income or holdings for retirement purposes;
- c. Does includes any funds available to a beneficiary of a trust or trust fund, Uniform Gifts to Minors Act accounts, Uniform Transfers to Minors Act accounts, passive income including but not limited to cash

flows from property income, including profits from ownership of capital, rent from ownership of resources such as rental income, cash flows from property or any piece of real estate, and interest from owning financial assets or trade or business activities in which the person does not materially participate.

- d. Does include immediately liquid assets held for the purposes of the business and not already committed to legitimate business purposes
7. The Borrowers cannot be engaged in any illegal activity under federal, state, or local law;
8. The proceeds from the program may not be used for any marijuana related business;
9. The borrower, an owner with at least 20% ownership, or a guarantor cannot generate any revenue from marijuana-related business; and
10. The Borrower must have experienced a 15% reduction in gross revenue attributable to the direct or indirect impacts of COVID-19.

Receipt of Payroll Protection assistance, Economic Injury Disaster Loans, and other State grants and assistance programs does not affect eligibility.

**Individual loans may not participate in both the Montana Loan Deferment Program and the Montana Working Capital Assistance Program.**

## **Use of Proceeds**

Proceeds will be used to pay 35% of a working capital loan underwritten with eligible expenses incurred and projected between March 12, 2020 and through December 30, 2020. **The Borrower must use the funds to replenish working capital.** [Updated September 17, 2020]

Federal law requires that all program grant funds be used for Covid-19 related expenses (i.e. additional tables or fixtures to facilitate social distancing, payment of utilities due to closures, etc.).

Eligible expenses include:

1. Payroll/Contract Labor;
2. Employee Benefits;
3. Leases/rents;
  - a. **Borrower may not use proceeds of the note to pay leases or rents to an affiliated holding company. See [“Eligibility Details and Q&A” \(page 6\)](#).** [Updated September 17, 2020]
4. Inventory;
  - a. **Funding for inventory may not cause net asset accumulation for the borrower and all assets purchased under the program must be generating revenue prior to December 30, 2020. See [“Eligibility Details and Q&A” \(page 6\)](#).** [Updated September 16, 2020]
5. Utilities;
6. Insurance;
7. Advertising;
8. Repairs and maintenance;
9. Office Expenses; and
10. Interest on the working capital note applying for this program.

Ineligible expenses include:

1. Real Estate Purchases;
2. Payment of taxes of any type;
3. Principal or interest on other outstanding debt;
4. Investment or re-lending of funds;
5. Dividends or distributions; and
6. Contributions to, or on behalf of, any political party, party committee, or candidate for elective office.

Loan funds and grant proceeds must be used by the noteholder/borrower for whom the application was made. Assets cannot be transferred among related business entities to gain access to the program or for use of the funds made available in the program. [Updated: October 7, 2020]

## Maximum Amount and Terms

- The maximum amount of Working Capital Program funding per loan is 35% of working capital loan up to \$175,000 (on a \$500,000 principal loan).
- Additional Program funding will be used to cover a 1% origination fee on all loans, up to \$5,000. This funding is in addition to the 35% grant.
- The length of the term is to be determined by the Lender and the Borrower.
- The interest rate on the loan is to be determined by the Lender and the Borrower.
- Existing term loans are ineligible for participation in this program.
- Existing operating notes as of March 12, 2020, must be converted to term loans to apply for program assistance.
- The grant portion of the Working Capital Program is taxable and form 1099-MISC will be issued to all participants.
- Loans funded in the Montana Loan Deferment Program are not eligible for the Montana Working Capital Program.
- Loans approved in the Montana Working Capital Program are not eligible for the Montana Loan Deferment Program.
- Lender who denied eligible businesses from participating in the Montana Loan Deferment Program are not eligible for the Montana Working Capital Program.

## Application Deadlines, Awards and Funding

Applications were distributed to approved Lenders starting on September 4, 2020. If an approved Lender does not receive an application, please contact the Montana Board of Investments, at 444-0001 to request an application.

Applications will be accepted beginning September 8, 2020.

The final application deadline is 5PM on October 23, 2020.

Funding of all awards will take place on October 27, 2020.

For any applications requiring additional review, all materials must be submitted by November 21, 2020 or the application will not be considered for funding. **Final funding will be on December 3, 2020.** [Updated: September 24, 2020].

## How to Apply

All applications must be submitted by an Approved Lender. **Borrowers should contact their Lender to start the application process.**

Lenders will receive an email from MBOI that will include the application and all other supporting documents that must be completed and returned to MBOI. Only the contact person at each approved Lender will receive the email, the contact person will be responsible for distributing the application to their lenders. The Lender should NOT distribute applications to the Borrowers.

**Lenders will need the following information and materials to complete the application:**

1. Montana Working Capital Program Application
2. Federal income tax gross revenue information:
  - a. If the borrower is an individual, Schedule C; or
  - b. If the borrower is a stand-alone business entity, first 2 pages of their Federal Income Tax. (“C” or “S” corporation, LLC, Partnership); or
  - c. If the borrower is a Real Estate Holding company, first 2 pages of their Federal Income Tax for the real estate holding company and the first 2 pages of the Federal Income Tax for the operating company(s) that flow to/thru the holding company.
3. A calculation showing the business’ 15% or more gross revenue reduction, indicating the tax year used for comparison of the most recently filed 2019 or 2018 tax return. You may use:
  - a. Average Calculation (total gross revenue divided by 12 multiplied by 7); or
  - b. Month-by-month comparison using the applicable tax year to 2020 for January 1 through July 31.
  - c. If multiple operating companies flow to a holding company, the average calculation of the month-to-month must be on a consolidated basis.
4. Names of all borrower partnerships or business entities, with the note holder listed first, and the respective Tax Identification Number (TIN) for each.
5. Name of any borrower’s partnerships, affiliates, or business entities for which a Montana Tax Return has been filed, including Federal Employer Identification Number.
6. Name of any sole proprietor or pass-through entity’s owners, shareholders or partners with SSN for each.
7. North American Industry Classification System (NAICS) Code

## **Approval Process**

Each application will be reviewed to verify the information provided in the application. The Borrower and Lender will need to attest to the completeness of the application and certain factual representations. The Montana Department of Revenue (DOR) and MBOI will verify information within the application.

Applications are subject to audit to ensure program compliance and program integrity. Applicants may be required to provide additional information to DOR, MBOI and their representatives, or their Lender to be considered further if selected for audit.

MBOI will ACH payments to the Lenders on behalf of the Borrower.

## **Taxability**

Government grant funds received under this program are included as gross revenue and is therefore taxable to the Borrower. Form 1099 will be issued by the State of Montana to all participants who received funding.

The origination fee is gross income under IRC § 61(a)(1), and, therefore, taxable to banks and financial institutions that are not explicitly exempt in the Internal Revenue Code or Montana Code Annotated.

Credit unions are tax-exempt under IRC § 501(c)(14) and § 32-3-901, MCA.

## How to Become and Approved Lender

Financial Institutions wishing to become an Approved Lender with the Montana Board of Investments, should contact the Montana Board of Investments at 444-0001.

## Returning Unused Funds

Lenders who need to return unused funds must email, Doug Hill notifying him of the amount to be returned, the unique identifier of the application, and the Borrower name. MBOI will coordinate with the Lender to transfer the funds.

## Approved Lenders

Altana Federal Credit Union

American Bank

American Bank Center

Ascent Bank

Bank of Baker

Bank of Bozeman

Bank of Bridger

Bank of Montana

Bank of the Rockies

Bear Paw Development Corporation

Belt Valley Bank

Capital Community Bank

Citizens Alliance Bank

Clearwater Federal Credit Union

Eagle Bank

Farmers State Bank

First Bank of Montana, Division of Glacier

First Citizens Bank of Butte

First Community Bank of Glasgow

First Federal Bank and Trust

First Interstate Bank

First Montana Bank - Missoula

First New Mexico Bank

First Security Bank of Bozeman, a Division of Glacier Bank

First Security Bank of Deer Lodge

First Security Bank of Missoula, a Division of Glacier Bank

First Security Bank of Roundup

First State Bank of Forsyth

First State Bank of Malta

Freedom Bank

Garfield County Bank

Glacier Bank

Granite Mountain Bank

Grasslands Federal Credit Union

Great Falls Development Authority

Headwaters RC&D Area, Inc

Independence Bank

Intrepid Credit Union

Madison Valley Bank

Manhattan Bank

mBank

Montana Board of Investments

Montana Business Assistance Connection, Inc

Montana Community Development Corp

Montana Educators' Credit Union

Mountain West Bank, a Division of Glacier Bank

Opportunity Bank of Montana

Peoples Bank of Deer Lodge

Ravalli County Economic Development Authority

Rocky Mountain Credit Union

Security State Bank

Snowy Mountain Development Corp

Southwest Montana Community Credit Union

Sky Federal Credit Union

Stockman Bank

Three Rivers Bank of Montana

Trail West Bank

Valley Bank Division of Glacier Bank

Valley Bank of Kalispell

Valley Bank of Ronan

Vocal Credit Union

Western Security Bank, Division of Glacier Bank

Whitefish Credit Union

Yellowstone Bank

## Eligibility Details and Q&A

**Funding for inventory may not cause net asset accumulation for the borrower and all assets purchased under the program must be generating revenue prior to December 30, 2020.**

**The Borrower must use the funds to replenish working capital.** [Updated September 17, 2020]

### **Operating and holding companies participating in the program:**

Borrower, if affiliated or financed by a holding company, such as regulated investment company (RIC), a real estate investment trust (REIT), or affiliated with an operating company through common ownership agrees that the Borrower shall not make payments to or require payments from any operating company, which is impacted by the COVID pandemic, to the Borrower, whether a holding company or an affiliate, excluding payments for taxes and insurance. Borrower understands that the grant is subject to audit by the Montana Department of Revenue for tax compliance purposes.

### **Additional information for supporting documents that must be provided at the time of application:**

Provide gross revenue through **July 31, 2020** for calendar year 2020.

For businesses that started in 2019 and did not have a full year of operation, the Lender can use the Borrowers approved revenue projection for 2020.

For businesses that started operations in 2020 prior to March 12, 2020 the Lender can use the Borrowers approved revenue projection for 2020.

### **Commercial Loans**

Commercial loans are those determined by the bank to comply with Federal Deposit Insurance Corporation (FDIC) regulations. Please see Part 4 of the [Schedule RC-C – Loans and Lease Financing Receivables](#) for guidance. Questions about FDIC definitions should be directed to the FDIC. [Updated September 17, 2020]

### **Can the working capital grant be used to reduce an existing line of credit if the line was granted after March 12, 2020 and used for authorized purposes?**

Yes, the eligible portion of the line must be converted into a term loan. Any ineligible expenses cannot be included in the principal balance of the applying note.

### **If an existing loan received funding from the Montana Loan Deferment Program, is that loan eligible?**

No, loans that received funding from the Montana Loan Deferment Program cannot receive funds from the Montana Working Capital Program.

### **If a Borrower can document that a capital purchase or expenditure is Covid-19 related, such as a drive through lane for a restaurant, is this eligible?**

Yes, capital purchases made as a result of the impacts of Covid-19 are eligible expenses that can be used to apply for this program.

Federal law requires that all program grant funds be used for Covid-19 related expenses (i.e. additional tables or fixtures to facilitate social distancing, payment of utilities due to closures, etc.).

**Can cash be used as collateral for the loan?**

Cash held by the borrower cannot be used as collateral (see [Eligibility Criteria 6](#)). Cash collateral may be used if not under the direct or indirect control or ownership of the borrower. [Updated: October 7, 2020]

**Can grant proceeds be used among and between related business entities?**

Loan funds and grant proceeds must be used by the noteholder/borrower for whom the application was made. Assets cannot be transferred among related business entities to gain access to the program or for use of the funds made available in the program. [Updated: October 7, 2020]