

SSBCI 2.0 Cash Collateral Program



Lender's Application



Program Guidelines

The Virginia Small Business Financing Authority's (VSBFA) *SSBCI Cash Collateral Program (CCP)* is designed to help Virginia's small businesses obtain the funds to start, enhance, or expand their operations and thereby created new jobs for citizens of the Commonwealth. The VSBFA participation helps reduce the bank's credit risk in those instances where the applicant company has the demonstrated ability to cash flow the debt, but the collateral coverage is insufficient for the bank's normal underwriting standards. In considering whether to provide cash collateral support for a bank's loan; the VSBFA assesses the company's ability to repay the loan, the experience of the company's management and the adequacy of the collateral available to secure the loan. Although there is no specific job creation requirement under the program, VSBFA also considers the economic impact and job creation and/or retention resulting from the financing.

Program Loan Amounts and Terms:

- The maximum SSBCI CCP Program support is 40% of the initial loan amount, or a maximum of \$1,000,000, whichever is less.
- If the Lender enrolls more than one loan to the Borrower, the maximum SSBCI CCP Program support of \$1,000,000 can be allocated to separate loans.
- Collateral support for term loans is limited to a maximum of 5 years of support.
- Collateral support for lines of credit is issued for one year and may be renewed up to 2 times with a maximum 3 years of support.

Eligible Borrowers:

- Must operate in Virginia and be in good standing with the State Corporation Commission or other applicable state or local licensing authority and
- Must NOT have principals who have been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911). National Sex Offender Registry - <https://www.nsopw.gov/>
- Must meet at least of one of the following criteria to be an eligible borrower:
 - Have \$10 million or less in annual revenues over each of the last three years; or
 - Have fewer than 250 employees in Virginia, and fewer than 750 employees overall; or
 - Have a net worth of \$2 million or less or
 - Be a 501c3 nonprofit organization
- May include jurisdiction-designated charitable, religious, or other non-profit or philanthropic institutions; government-owned corporations; consumer and marketing cooperatives; and faith-based organizations, provided the loan is for a eligible business purpose, as defined below
- May include sole proprietors, independent contractors, worker cooperatives, and other employee-owned entities, as well as Tribal enterprises, provided that all applicable program requirements are satisfied.

Ineligible Borrowers:

- A business engaged in speculative activities that profit from fluctuations in price, such as wildcatting for oil and dealings in commodities futures.
- A business that earns more than half of its net revenues from lending activities, unless the business is a CDFI that is not a depository institution or bank holding company.
- A business engaged in pyramid sales where a participant's primary incentive is based on the sales of an ever-increasing number of participants.
- A business engaged in activities prohibited by federal law or if permitted by federal law, applicable law in the jurisdiction where the business is located or conducted. This includes direct and indirect marijuana businesses.
- A business deriving more than one-third of its annual revenue from legal gambling activities.
- A business whose principal(s), defined as an owner holding 20% or more ownership, has been convicted of a sex offense against a minor and listed in the national public registry of sex offenders <https://www.nsopw.gov/search-public-sex-offender-registries>.
- An executive officer, director, or principal shareholder of the Lender or member of the immediate family of an executive officer, director, or principal shareholder of the Lender, or related interest of the immediate family member of such an executive officer, director, or principal shareholder of the Lender.

Eligible Loan Purpose:

- Start-up costs
- Working capital lines of credit or term loans for permanent working capital
- Franchise fees
- Acquisition of equipment or services used in the production, manufacturing or delivery of business' goods or services
- Purchase, construction, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes
 - Construction of a new building. If the SSBCI-supported loan proceeds are used in the construction of a new building, the small business must occupy and use at least 60% of the total rentable property following issuance of an occupancy permit or other similar authorization.
 - Renovation of an existing building. If the SSBCI-supported loan proceeds are used in the acquisition, renovation, or reconstruction of an existing building, the borrower may permanently lease up to 49% of the rentable property to one or more tenants, if the small business occupies and uses at least 51% of the total rentable property within 12 months following the acquisition, renovation, or reconstruction.

If any portion of the loan proceeds will be used to fund construction, the borrower must comply with the Davis-Bacon Act and ensure that all laborers and mechanics employed by contractors or subcontractors shall be paid wages not less than those prevailing on similar construction in the locality, as determined by the U.S. Secretary of Labor. Where the land facilitating construction is purchased in part or in whole with EDLF funds, this requirement extends to construction work, including that which is not directly paid for with CCP funds.

- Refinance of existing Borrower debt by new Lender
 - A new lender may refinance a borrower's existing loan originally made by an unaffiliated lender so long as proceeds of the transaction are not used to finance an extraordinary dividend or other distribution.
 - For purposes of the Eligible Business Purpose and Use of Proceed Certification, the eligible business purpose of the new loan is generally determined by the purpose of the underlying loan being refinanced.

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- **New extensions of credit by existing Lender:**

- An existing Lender may support a new extension of credit that repays the amount due on a matured loan that was previously used for an eligible business purpose **ONLY when all of the following conditions are met:**
 - ❖ The new loan is at least 150% of the outstanding amount of the matured loan;
 - ❖ The new credit supported with SSBCI funding is based on a new underwriting of the business's ability to repay and a new approval by the Lender;
 - ❖ The prior loan has been paid as agreed and the borrower was not in default of any financial covenants for at least the previous 36 months (or since origination, if shorter) and
 - ❖ Proceeds of the transaction are not used to finance an extraordinary dividend or other distribution.

Ineligible Loan Purposes:

- Eliminate the bank's requirement for business collateral, personal collateral from the principal(s), or the principal's personal guaranty.
- To compensate for a fundamental business weakness, including poor financial condition of the business, unprofitable business operations and the business' inability to repay a debt.
- Finance passive real estate investment being leased to a third party, purchase of residential housing, real estate construction or development.
- Finance the purchase of goodwill
- Finance the unguaranteed portion of a SBA or other federally guaranteed loan
- Repay delinquent federal or jurisdiction income taxes unless the borrower has a relevant payment plan in place with the relevant taxing authority
- Repay taxes held in trust or escrow (e.g. payroll or sales taxes)
- Purchase any portion of the ownership interest of a business **except** for the purchase of an interest in an ESOP qualifying under section 401 of the IRS code provided that the transaction results in broad-based employee ownership for employees in the business

Lender Requirements and Fees:

- **Confession of Judgement** SSBCI-supported transactions are prohibited from utilizing confession of judgment clauses.
- **Lender Capital-At-Risk** Participating Lenders that originate loans to small businesses, which are supported by VSBFA's CCP must bear 20% or more of the risk of loss in any transaction. A Borrower's equity contribution to the transaction does not qualify toward the 20% threshold for the Lender Capital-At-Risk requirement.
- **Rate cap** At the time of loan origination and throughout the term of the loan, the Lender's interest rate for each CCP supported loan may not exceed the National Credit Union Administration's (NCUA) interest rate ceiling of 18%.
- **Prepayment Fees** For loans with an original principal amount under \$100,000, lenders may not include prepayment fees. For loans with an original principal amount of \$100,000 or more, lenders may include prepayment fees so long as any such fees are reasonable, customary, and clearly disclosed to the Borrower.
- **Upfront Fees** or charges paid by the small business, excluding CCP fees paid to VSBFA may not exceed 3% for loans greater than \$25,000. For loans of \$25,000 or less, these upfront fees may not exceed \$750. Upfront fees that count toward this cap include Lender application fees, origination fees, and document preparation fees. Upfront fees that **do not** count toward this fee cap include reasonable and customary fees for title insurance, title examination, appraisals, property surveys, environmental site assessments, and credit reports.
- **Disclosure of Terms** Prior to the consummation of the transaction, the Lender must provide the Borrower with a disclosure of all key terms in an easy-to-understand manner. This disclosure must include payment terms and schedule, any terms giving the Lender control over the Borrower's cash balances, and any fees including additional costs and prepayment fees. This disclosure may be provided to the Borrower as a part of the Lender's loan commitment to the Borrower.

VSBFA Program Support Fees for approved applications:

Due to the limited time-frame of federal funding for this program, VSBFA is temporarily **waiving all program fees**, including the \$200 application fee, and the one-time SSBCI *Cash Collateral Program* Support Fee for approved applications.

Application Help

Businesses should apply to commercial banks for their financing need. The bank determines if VSBFA participation is needed for their approval. The lender is encouraged to call the VSBFA to discuss the transaction. Email: VSBFA@sbsd.virginia.gov Telephone: 804-371-8254.

What to provide with the Application:

1. Completed SSBCI CCP Lender's Application
2. Borrower's Agreement and Application
3. Certificate of Good Standing for the Borrower
4. Lender's Internal Credit Memo to include:
 - Analysis of Borrower's Financial Condition and Profitability, and Repayment Analysis, including ratios, trends, and Industry Standards (e.g.: RMA Comparables)
 - Collateral Analysis, including lien position and adequacy
5. Lender's experience with the Borrower, if any, including Strengths and Weaknesses of the transaction
6. Lender's justification for request of VSBFA support
5. If the loan involves an eligible passive company (EPC), a copy of the executed lease between the EPC and the operating company (OC)
6. Any other documents that may be required

Where and How to Submit an Application:

Email: VSBFA@sbsd.virginia.gov

Express Mail: 101 N. 14th Street, 11th Floor Richmond, VA 23219

USPS Mail: P.O. Box 446, Richmond, VA 23218-0446

Application Process: What to Expect from the VSBFA

Completed applications will be reviewed and you will be contacted if additional information is required. Initial review of the application will generally be made within a few business days. You will be notified of the credit decision and informed of the next steps in the loan process if approved.

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Lender: _____ **EIN:** _____

Lender Relationship Manager: _____ **Title:** _____

Address: _____ **Phone:** _____

Address: _____ **Email:** _____

City: _____ **State:** _____ **Zip:** _____ **County:** _____

PLEASE NOTE

SSBCI CCP Program Support may not exceed 40% of the original principal amount of the loan, or a maximum of \$1,000,00, whichever is less. If the Lender is enrolling more than one loan or line of credit, the aggregate SSBCI CCP Program Support on all enrolled loans to the Borrower may not exceed \$1,000,000.

SSBCI Cash Collateral Program support is requested for the following loan(s):

Borrower's Legal Name: _____	Borrower's EIN: _____	
	1 st Loan	2 nd Loan
Amount of Loan:	\$	\$
Number of Years Cash Collateral is needed:	#	#
Percentage of Cash Collateral Support Requested: (Not to exceed 40% or aggregate of \$1,000,000)	%	%
Cash Collateral Requested:	\$	\$

Lender Loan #1 Amount: \$ _____

Lender Loan #1 Collateral: _____

Loan #1 Primary Purpose (select one):

Loan #1 Secondary Purpose (select one):

- Marketing, market research, and commercialization expenses
- Research and development
- Technology integration in physical production, e.g., manufacturing or supply chain
- Technology integration of nonphysical production, e.g., accounting, customers
- Acquire land
- Purchase existing building
- Convert, expand, or renovate buildings – energy efficiency
- Convert, expand, or renovate buildings – other
- Construct new buildings
- Acquire and install fixed assets
- Acquire inventory
- Purchase supplies and raw materials
- Leasehold improvements
- Working capital – wages, salaries, and benefits of employees
- Working capital – other
- Refinance outstanding debt
- Support employee stock ownership plan (ESOP) transaction

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- Acquire land
- Purchase existing building
- Convert, expand, or renovate buildings – energy efficiency
- Convert, expand, or renovate buildings – other
- Construct new buildings
- Acquire and install fixed assets
- Acquire inventory
- Purchase supplies and raw materials
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- Working capital – wages, salaries, and benefits of employees
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Lender Loan #2 Amount: \$ _____

Primary Loan #2 Purpose (select one only):

- Marketing, market research, and commercialization expenses
- Research and development
- Technology integration in physical production, e.g., manufacturing or supply chain
- Technology integration of nonphysical production, e.g., accounting, customers
- Acquire land
- Purchase existing building
- Convert, expand, or renovate buildings – energy efficiency
- Convert, expand, or renovate buildings – other
- Construct new buildings
- Acquire and install fixed assets
- Acquire inventory
- Purchase supplies and raw materials
- Leasehold improvements
- Working capital – wages, salaries, and benefits of employees
- Working capital – other
- Refinance outstanding debt
- Support employee stock ownership plan (ESOP) transaction

Lender Loan #2 Collateral: _____

Secondary Loan #2 Purpose (select one only):

- Marketing, market research, and commercialization expenses
- Research and development
- Technology integration in physical production, e.g., manufacturing or supply chain
- Technology integration of nonphysical production, e.g., accounting, customers
- Acquire land
- Purchase existing building
- Convert, expand, or renovate buildings – energy efficiency
- Convert, expand, or renovate buildings – other
- Construct new buildings
- Acquire and install fixed assets
- Acquire inventory
- Purchase supplies and raw materials
- Leasehold improvements
- Working capital – wages, salaries, and benefits of employees
- Working capital – other
- Refinance outstanding debt
- Support employee stock ownership plan (ESOP) transactions

Freedom of Information Act

Unless prohibited by law and to the extent required under the Freedom of Information Act (FOIA), contents of the Application and other information submitted by the Applicant may be released in response to a FOIA request. Applicant should be aware that EDA may make certain Application and other submitted information publicly available. Accordingly, as set forth in 15 CFR § 4.9, Applicant should identify any “business information” it believes to be protected from disclosure pursuant to 5 U.S.C. § 552(b)(4).

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Lender's Use of Proceeds, Conflict of Interest, Sex Offender, and Civil Rights Certifications

Lender's Legal Name: _____

The Lender hereby certifies to the VSBFA the following:

1. I certify to the VSBFA that the loan represented by this Lender's Application is approved subject to terms specified. Without VSBFA's participation, as requested, we would not be willing to make this loan, and in our opinion the financial assistance requested is not otherwise available on reasonable terms. I have reviewed and verified all of the information in the Borrower's loan application, Borrower's Certification and the documentation supporting this Application. I certify, to the extent of my knowledge that the borrower is eligible (for the purposes of this program), the proceeds will be used for an eligible purpose in Virginia.
2. The SSBCI-supported loan is not being made to protect previously extended debt of the Lender not covered under the approved CCP program and that is or was owed by the Borrower to the Lender or to an affiliate of the Lender.
3. If the SSBCI-supported loan is a refinancing, it complies with all applicable SSBCI restrictions and requirements in Sections VII (f) and VIII (f) of the SSBCI Capital Program Policy Guidelines regarding refinancing and new extensions of credit, including that the SSBCI-supported loan is not a refinancing of a loan previously made to the borrower by the lender or an affiliate of the Lender.
4. The Lender is not attempting to enroll any portion of an SBA-guaranteed loan.
5. Additionally, Lender certifies that the loan has not been made in order to:
 - a. Eliminate the bank's requirement for collateral or the principal's personal guaranty, or
 - b. Finance passive real estate investment, purchase of residential housing, real estate construction or development, or
 - c. Repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority; or repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
 - d. Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
 - e. To purchase any portion of the ownership interest in the Borrower; or to purchase any portion of the ownership interest in any company, including 100% interest; or
 - f. To purchase goodwill, or
 - g. To provide financing to a religious establishment unless the proceeds of the loan are used only for a "business purpose." A "business purpose" does not include an explicitly religious purpose, and the proceeds of the loan to a religious establishment may not be used for the purposes of supporting, assisting, or furthering an explicitly religious purpose, including, but not limited to, worship, religious instruction, or proselytization.
6. The Lender is not:
 - a. an executive officer, director, or principal shareholder of the Borrower;
 - b. a member of the immediate family of an executive officer, director, or principal shareholder of the Borrower; or
 - c. a related interest or immediate family member of such an executive officer, director, or principal shareholder of the Borrower. For the purposes of the above conflict of interest certification, the terms "executive officer," "director," "principal shareholder," "immediate family," and "related interest" refer to the same relationship to the lender as the relationships described in 12 C.F.R. part 215. The undersigned is an authorized representative of the Lender.
 - d. No principal of the financial institution lender has been convicted of a sex offence against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. § 16911)). For the purposes of this certification, "principal" is defined as if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association, development company, or other entity, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20 percent or more of the ownership stock or stock equivalent of the entity.
7. SSBCI capital funds are considered federal financial assistance for purposes of legal requirements related to nondiscrimination and nondiscriminatory use of federal funds, where such laws are applicable. These requirements include ensuring that entities receiving federal financial assistance from Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with, but not limited to, the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d-1 et seq., and Treasury's implementing regulations, 31 C.F.R. part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and Treasury's implementing regulations, 31 C.F.R. part 28; Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and Treasury's implementing regulations at 31 C.F.R. part 23.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

The undersigned is an authorized representative of the Lender.

By: _____ (Authorized Lender Signature) _____ (Print Name)

Title: _____ **Date:** _____