BUSINESS BRIEFING

NEW CARES Act Guidance to Assist Your Business

April 9, 2020

Governor Doug Burgum
Michelle Kommer, Commerce Commissioner
Bryan Klipfel, Executive Director Job Service & WSI
Arik Spencer, President & CEO Greater ND Chamber

#InThisTogetherND
This presentation is NOT all-inclusive of all federal stimulus aid. The information you receive today does not serve as legal or financial advice. You should consult with your financial services professional before making any decisions regarding your business. At this time, many questions of implementation remain unanswered.

4/9/2020
TODAY’S GOAL

The goal today is to make you aware of financial resources you might consider and updated guidance—NOT to help you choose a course of action. This decision should be made in consultation with a financial services professional.
ASK QUESTIONS

SUBMIT YOUR QUESTIONS TO businesshelpCOVID19@nd.gov

#InThisTogetherND
SHARE

This recording and materials will be available for later use. Please spread the word to North Dakota businesses through your social media, business and trade groups, and other ways.

#InThisTogetherND
• CARES Act – Quick Review
• Updates as of 4/2/2020:
  – Economic Injury Disaster Loan (EIDL)
  – Paycheck Protection Program (PPP)
  – Expanded Unemployment
  – Direct Payments
• Special Callout:
  – Sole Proprietors, Non-Profits & Faith-based Organizations
• Closing Remarks
Coronavirus Aid, Relief and Economic Security Act (CARES Act)

provide emergency assistance and health care response for individuals,

affected by the 2020 coronavirus pandemic.

NORTH Dakota Commerce

#InThisTogetherND
LET’S REVIEW

• Economic Injury Disaster Loans
• Paycheck Protection Program
• Expanded Unemployment Insurance
• Direct Payments

#InThisTogetherND
**COMPARISON of EIDL to PPP**

<table>
<thead>
<tr>
<th>Eligibility</th>
<th>SBA Paycheck Protection Program</th>
<th>Small Business Disaster Relief Program (EIDL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Small business with 500 employees or less</td>
<td>1. Small businesses with 500 employees or less</td>
<td></td>
</tr>
<tr>
<td>2. Nonprofit Organization - 501(c)(3) and Veteran’s Organization - 501(c)(3)</td>
<td>2. Nonprofit法人</td>
<td></td>
</tr>
<tr>
<td>4. Independent contractor</td>
<td>4. Independent contractors</td>
<td></td>
</tr>
<tr>
<td>5. Joint venture</td>
<td>5. Joint venture</td>
<td></td>
</tr>
<tr>
<td>7. Small business with more than 1 physical location (e.g. Accommodations and Food Services)</td>
<td>7. Small business with more than 1 physical location (e.g. Accommodation and Food Services)</td>
<td></td>
</tr>
<tr>
<td>8. Business operating under affiliated rules (e.g. franchise business)</td>
<td>8. Business operating under affiliated rules (Franchise)</td>
<td></td>
</tr>
</tbody>
</table>

**Requirements**

- Must verify business impact by COVID-19 and use of funds to keep workers, maintain payroll and other debt obligations.

<table>
<thead>
<tr>
<th>Loan Max</th>
<th>$10M</th>
<th>$1M</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Guarantee</td>
<td>100%</td>
<td>Per criteria</td>
</tr>
<tr>
<td>Payment Deferral Allowed</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Allowable Uses of Funds**

1. Payroll costs.
2. Costs related to the continuation of group health care benefits during periods of paid sick leave, or family leave, and insurance premiums.
3. Employee salaries, commissions, or similar compensation.
4. Payments of interest on any mortgage obligations (which shall not include any prepayment of or payment of principal on a mortgage obligation).
5. Rent or lease payments.
6. Utilities.
7. Internet service charges.

**Payment Forgiveness**

- For criteria

**How/where to apply**

- Local lender
- www.sba.gov/disaster

<table>
<thead>
<tr>
<th>Loan Terms</th>
<th>SBA Paycheck Protection Program</th>
<th>Small Business Disaster Relief Program (EIDL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 years</td>
<td>2 years</td>
<td>2 years</td>
</tr>
</tbody>
</table>

Please note: This information was accurate as of the day it was produced but is changing rapidly. Consult your advisor before making decisions.

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*Other sources: [https://desktrack.com/us-sba-information/]>https://desktrack.com/us-sba-information/*
EIDL RESOURCES

• Small Business Administration EIDL Main Page
  – Overview
  – Eligibility
  – FAQ’s
  – Application
• PPP Overview
• Borrower – More Information
• Borrower Application Form
• Lender – More Information
• Lender Application Form
• Frequently Asked Questions
EXPANDED UNEMPLOYMENT INSURANCE

- Pandemic Unemployment Assistance (PUA)
- Pandemic Emergency Unemployment Compensation (PEUC)
- Federal Pandemic Unemployment Compensation (FPUC)
- Waiting Week Waiver
DIRECT PAYMENTS

- Individuals: $1,200
- Couples: $2,400
- Kids under 17: $500
- Income exceptions apply

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RECENT UPDATES
CLARIFICATIONS*

• The $10,000 loan advance feature is “UP TO” $10,000...not a guaranteed $10,000; loan advance is based on FTE’s
  – This guidance/formula is not final

• The borrower may apply for the emergency advance only

• The EIDL loan advance “may be” forgiven

• If the borrower receives a loan advance AND the PPP, the advance under EIDL is subtracted from the PPP amount forgiven

*Al Haut, ND District Director, 4/8/20 BND Call
• 1% interest rate
• Provided example to calculate maximum loan
  – There appears to be more than one permissible way to calculate maximum loan
• Forgiveness
  – No more than 25% of forgivable costs may be non-payroll
  – [The loan forgiveness formula is “still in development” and further guidance is expected “in the next week or so”*]
• USE MOST RECENT FORMS

*Al Haut, ND District Director, 4/8/20 BND Call
CLARIFICATIONS*

- Employee salaries over $100,000 cannot be counted (but benefits are not reduced)
- In calculating allowable costs, you may include interest on mortgages, but not interest on other payments (like equipment)

*Al Haut, ND District Director, 4/8/20 BND Call
MORE TO COME

• Additional Guidance
  – Lender documents made available 4/7/20
  – How to calculate payroll costs for employees making > 100K
  – Forgiveness
  – Closing process/Funding date

• Will there be additional funding?
  – U.S. Chamber and others have written in support of more funding
**"Josie’s Coffee Shop"**

**Employees: 5**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual payroll:</td>
<td>$120,000</td>
</tr>
<tr>
<td>Average monthly payroll:</td>
<td>$10,000</td>
</tr>
<tr>
<td>Multiply by 2.5 =</td>
<td>$25,000</td>
</tr>
<tr>
<td>Maximum loan amount:</td>
<td>$25,000</td>
</tr>
<tr>
<td>Payroll $10,000 (2x):</td>
<td>$20,000</td>
</tr>
<tr>
<td>Rent $1000 (2x):</td>
<td>$2,000</td>
</tr>
<tr>
<td>Utilities $500 (2x):</td>
<td>$1,000</td>
</tr>
<tr>
<td>Interest $500 (2x):</td>
<td>$1,000</td>
</tr>
<tr>
<td><strong>Total Expenses (8 weeks)</strong></td>
<td><strong>$24,000</strong></td>
</tr>
</tbody>
</table>

**Maximum loan amount:** $25,000

**Total Expenses (8 weeks):** $24,000

**Difference:** $1,000
"ND Inn"
Employees: 120

Annual payroll: $5,400,000
Average monthly payroll: $450,000
Multiply by 2.5 = $1,125,000
Maximum loan amount (PPP): $1,125,000

Payroll $450,000 (2x): $900,000 $180,000
Rent $75,000 (2x): $150,000 $150,000
Utilities $50,000 (2x): $100,000 $100,000
Interest $25,000 (2x): $50,000 $50,000
Total Expenses (8 weeks) $1,200,000 $480,000

Maximum loan amount (EIDL included): $1,125,000 $1,125,000
Total Expenses (8 weeks): $1,200,000 $480,000
Difference: $75,000 $645,000
Possible Amount Forgiven: $1,125,000 $ Unknown
UI
UNEMPLOYMENT
INSURANCE

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IMPLEMENTATION UPDATE

• PUA
  – Initial high level USDOL guidance came 4/6. Additional guidance will be coming. ND is accepting claims but is targeting week of 4/12-4/18 for processing after additional guidance arrives

• PEUC
  – Still awaiting federal guidance

• FPUC
  • First payments are targeted for week of 4/12-4/18

• Waiver of week waiting period
  • Programming completed and payments began 4/7

#InThisTogetherND
• Does the recipient collect an extra $600 if working minimum hours currently and collecting unemployment?
  – Yes, anyone receiving unemployment insurance benefits will receive the extra $600

• What happens if an employee’s hours are reduced (either in one job across two jobs)? Still eligible to apply for UI?
  – Individuals with reduced hours can receive benefits. Up to 60% of the individual’s weekly benefit amount can be earned in employment with no impact on their benefit amount. Anything over 60% is deducted from their benefit amount that week on a dollar-for-dollar basis

• Can a business owner “lay him/herself off” and collect unemployment?
  – If the business owner must close or reduce their business operations due to the pandemic, they can receive unemployment insurance benefits
HOW TO APPLY

UI/CE Regular Unemployment
Apply Here
For Regular Unemployment Insurance Benefits, including employees laid off due to COVID-19

PEUC Unemployment Extension
Apply Here
A 13-week benefit extension program after regular UI Benefits are exhausted

PUA Unemployment
Apply Here
If you are an Independent Contractor or 1099 Worker to apply for COVID-19 related Pandemic Unemployment Assistance

Find a Job or Recruit Employees
ND’s Online Workforce Connection

UI EASY Login
Unemployment Insurance Business Tax Login

Labor Market Information
Workforce and Employment Data, and More

#InThisTogetherND
Consultant (S-Corp, single owner) lays him/herself off due to lack of work relating to COVID. Can s/he collect unemployment?

Yes, the consultant should file a Pandemic Unemployment Assistance claim at www.jobsnd.com
REMINDERS

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DIRECT PAYMENTS

HOW & WHEN

#InThisTogetherND
• Direct-Deposit for those who have previously authorized direct-deposit IRS tax refund
  – In 2019, 92 million people (60% of all filers) received refunds via direct deposit
• Paper Checks
• There is discussion of creating a portal (like VENMO) for people to enter their banking information to get payments more quickly
• Those on social security are eligible and need not have filed a tax return – their payments will be received in the same manner they receive their social security benefits

*Al Haut, ND District Director, 4/8/20 BND Call
WHEN

- US Treasury Secretary Mnuchin on March 30 estimated payments to begin “in 2 weeks”
SPECIAL CALLOUT

• Sole Proprietors
• Independent Contractors
• Self-Employed
• Non-Profit
• Faith-Based Organizations
The CARES Act states: “...individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible. Applicants who fall in this category will need to provide documentation such as “payroll tax filings reported to the Internal Revenue Service, Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the (SBA) Administrator and the (Treasury) Secretary.”
SOLE PROPRIETOR – EIDL AND PPP

• Applications open now
• We are expecting further guidance for documentation required to show income, among other things
INDEPENDENT CONTRACTOR & SELF-EMPLOYED: EIDL AND PPP

- When you can apply:
  - EIDL: Now
  - PPP: April 10

- We are expecting further guidance for documentation required to show income, among other things

- Independent contractors do not “count” as employees for small businesses (because they can apply for PPP too)

- Other terms the same

#InThisTogetherND
NON-PROFIT ORGANIZATION
A nonprofit organization is eligible for EIDL only if it:

- (a) was in operation before January 31, 2020; and
- (c) with fewer than 500 employees

Nonprofits businesses who primarily engaged in political or lobbying activities (13 CFR § 120.110 (r)) or derives over 50% of its gross annual revenue from political or lobbying activities are not eligible.
A nonprofit organization is eligible for PPP only if it:

a) was in operation on February 15, 2020;

b) is an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code; a 501(c)(19) veterans organization; or a tribal business concern on the terms set forth in the CARES Act;

c) with fewer than 500 employees

Nonprofits businesses who primarily engaged in political or lobbying activities (13 CFR § 120.110 (r)) or derives over 50% of its gross annual revenue from political or lobbying activities are not eligible.
NON-PROFIT – UNEMPLOYMENT INSURANCE

• Most nonprofit organizations do not pay per-worker unemployment taxes and instead have “reimbursable arrangements” with state unemployment programs, which require them to reimburse the state for 100 percent of the cost of unemployment compensation paid to their laid off or furloughed workers.

  • The CARES Act - Sec. 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations does offer flexibility in paying reimbursement where provisions would reduce the amount that nonprofits organizations are required to reimburse states for benefits paid to their workers who claim unemployment insurance by 50 percent through December 31, 2020. Check with the ND Job Service https://www.jobsnd.com/ and your nonprofit employer to determine if unemployment benefits were paid to the state.

• Workers at nonprofit organizations are also eligible for the Federal Pandemic Unemployment Compensation supplement ($600 a week).

ADDITIONAL FEDERAL RULES IN PROGRESS

#InThisTogetherND
FAITH BASED ORGANIZATIONS
Eligible if:

• In operation on February 15, 2020;

• Is either (a) an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and

• with fewer than 500 employees
FAITH-BASED ORGANIZATIONS – UNEMPLOYMENT INSURANCE

• Most faith-based organizations do not pay per-worker unemployment taxes and instead have “reimbursable arrangements” with state unemployment programs, which require them to reimburse the state for 100 percent of the cost of unemployment compensation paid to their laid off or furloughed workers.

  – The CARES Act - Sec. 2103. Emergency Unemployment Relief for Governmental Entities and Faith based Organizations does offer flexibility in paying reimbursement where provisions would reduce the amount that faith-based organizations are required to reimburse states for benefits paid to their workers who claim unemployment insurance by 50 percent through December 31, 2020. Check with the ND Job Service [https://www.jobsnd.com/](https://www.jobsnd.com/) and your faith-based employer to determine if unemployment benefits were paid to the state.

• Workers at nonprofit organizations are also eligible for the Federal Pandemic Unemployment Compensation supplement ($600 a week).

ADDITIONAL FEDERAL RULES IN PROGRESS

#InThisTogetherND
RECOMMENDED RESOURCES

- NDresponse.gov (Select “Business and Employers”)
- U.S. Department of Treasury
- SBA COVID-19 RESOURCES
- U.S. DOL (FFCRA)
- USChamber.com
- NDchamber.com
- North Dakota Small Business Development Center
- SCORE Mentors
- ND Women’s Business Center
- Veteran’s Business Outreach Center
It is critical that businesses document all COVID-related expenses, losses, and any other information relating to COVID pandemic.
OTHER REMINDERS

- CARE19
- Census 2020
- Main Street Business Survey
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4/9/2020
IN CLOSING

More to come – implementation resources and guidance are developing.
THANK YOU

SUBMIT YOUR QUESTIONS TO
businesshelpCOVID19@nd.gov