

75 JR

JAN11 '22 AM 10:32 RCVD



BEA

New Hampshire Department of
**BUSINESS AND
ECONOMIC AFFAIRS**

December 28, 2021

His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Business and Economic Affairs, Division of Economic Development, to enter into a Memorandum of Understanding with the New Hampshire Business Finance Authority in the amount of \$61,404,468 for the purpose of administering the State Small Business Credit Initiative grant program awarded by the US Department of Treasury, effective upon Governor and Executive Council approval through June 30, 2023. **100% Federal Funds.**

Funding is contingent upon Fiscal Committee and Governor and Executive Council approval of an Accept and Expend for \$61,468,436 on the January 21, 2022 Fiscal Committee and January 26, 2022 Governor and Executive Council meetings. Funds will be available in the following account upon approval:

State Small Business Credit Initiative 03-22-22-220510-NEW XXXX		FY22
102-500731	CONTRACTS FOR PROGRAM SERVICES	\$61,404,468
	Total Expense	\$61,404,468

EXPLANATION

The US Department of Treasury has awarded the New Hampshire Business Finance Authority (BFA) a State Small Business Credit Initiative (SSBCI) grant program contingent upon Fiscal Committee and Governor and Executive Council approval. To comply with federal requirements, the funds must flow through the New Hampshire's Department of Business and Economic Affairs (BEA) as a pass thru grant. The SSBCI grant program, which is a component of the American Rescue Plan Act, provide states with funds to assist local entrepreneurs expand their businesses and ensure they have access to loan capital to grow their operations.

These funds are solely useable by the BFA's programs that assist the private sector in accessing capital to grow their businesses. The funds are primarily used to assist local banks make loans to New Hampshire companies that otherwise would not be able to receive financing. These funds are not allowed to be used as grants to individuals or businesses, but rather to assist the private market in deploying private capital in a manner that creates jobs for local communities. That is the core function of the BFA and this funding will continue that mission across the state.

In 2021, the Governor designated the BFA to apply for these funds on behalf of the State. After submission of a grant application the BFA received notification that they were selected to receive the grant allocation



The Honorable Karen Umberger, Chairman
Fiscal Committee of the General Court

His Excellency, Governor Christopher T. Sununu
and the Honorable Council

described above. However, as a "quasi-state" entity the BFA does not have the legal capacity to sign the grant agreement between the State and Federal Government. Therefore, BEA will serve as the pass-through entity in order to resolve this technical issue.

The programs funded by SSBCI are existing BFA programs that require no State support now, or in the future. The BFA is a self-supporting organization, receives no State taxpayer funding, and will not need to add additional staff to operate the program. There will be no long-term costs or obligations as a result of the program.

In the event that Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "T. Caswell". The signature is written in a cursive style with a large initial "T" and "C".

Taylor Caswell
Commissioner

**Memorandum of Understanding
Between
New Hampshire Business Finance Authority
And
New Hampshire Department of Business and Economic Affairs
For
State Small Business Credit Initiative Grant**

PART I

This Memorandum of Understanding (MOU) between the New Hampshire Business Finance Authority (BFA) and the New Hampshire Department of Business and Economic Affairs (BEA) for the purpose of providing administration, oversight, reporting, and support services in compliance with the State Small Business Credit Initiative (SSBCI) grant program for the State of New Hampshire (State).

WITNESSETH THAT:

WHEREAS, the State desires to implement the State Small Business Credit Initiative (SSBCI) grant program, a component of the "American Rescue Plan Act" being funded by the US Department of Treasury.

WHEREAS, the SSBCI grant program consists of helping local entrepreneurs expand their businesses and to put more Americans back to work.

WHEREAS, administration of the SSBCI grant program will consist of overall grant administration, fiscal administration, and program administration to fulfil the requirements of the SSBCI grant;

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services - The BFA shall be responsible for overall SSBCI grant program administration, oversight, reporting, and support services in compliance with the SSBCI grant, as per "Part II." This work may be subcontracted in whole or in part according to BFA's staffing resources as per "Part III."
2. Time of Performance - The services of BFA shall commence upon Governor and Executive Council approval. All of the services required and performed hereunder shall be completed no later than September 30, 2030 per the SSBCI grant program term.
3. Access to Information - It is agreed that all information, data, reports, records and/or other information necessary for carrying out the work outlined above shall be furnished to BEA by the BFA and its agents. No charge shall be made to the State for such information and the State will cooperate with the BFA in every way possible to facilitate the performance of the work described in this MOU.
4. Miscellaneous Provisions
 - This MOU shall be construed under and in accordance with the laws of the State, and all obligations of the parties created hereunder are performable in the State.
 - This MOU shall be binding upon and inure to the benefit of the parties hereto and their respective executors, administrators, legal representatives, successors and assigns where permitted by this MOU.
 - In any case one or more of the provisions contained in this MOU shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof, and this MOU shall not be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - This MOU may be amended by mutual agreement of the parties hereto in writing to be attached to and incorporated into this MOU.
5. Terms and Conditions - This Agreement is subject to the provisions titled, "Part III" as attached hereto and incorporated by reference herein.

Initials JKW
Date 12-23-2021

6. Limit of Liability - The BFA agrees to execute the work diligently according to the terms of this MOU. The BFA and its employees shall not be liable for opinions rendered or for errors resulting from the quality of data supplied to it upon which any opinion or advice was based. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this MOU.
7. Scope of MOU - This MOU is made up of and contains all of the terms in Part I through Part IV.

PART II

The BFA shall provide the following:

1. Grant Administration
 - The BFA shall develop a record keeping system consistent with SSBCI grant program guidelines, including the establishment of a filing system.
 - The BFA shall maintain the primary filing and record keeping system throughout the grant period.
 - The BFA shall furnish the necessary completed forms and reporting required for implementation of the SSBCI grant program.
 - The BFA shall meet all special condition requirements that may be stipulated in the MOU between the State and US Department of Treasury.
 - The BFA shall prepare and submit all required project reporting required by the SSBCI grant, including but not limited to progress reporting, quarterly reporting, and other reporting included in the MOU between the grantee and the US Department of Treasury.
 - The BFA shall prepare and submit drawdown reimbursement requests to the US Department of Treasury, following the procedure outlined in Grant Management Assistance section 2, below.
 - The BFA shall serve as liaison for the State during the implementation and completion of the SSBCI grant program for any monitoring visit by staff representatives from the US Department of Treasury.
2. Grant Management Assistance
 - All original SSBCI grant program documents shall be retained by the BFA and shall be available to the State upon request.
 - The BFA shall prepare the drawdown package, sign the requisite form(s), and submit it to the US Department of Treasury.

PART III

1. Termination of MOU
 - If, through any cause, either the BFA or the State shall fail to fulfill in a timely and proper manner its obligation under this MOU, or if either shall violate any of the covenants, agreements, or stipulations of this MOU, the other shall thereupon have the right to terminate this MOU by giving written notice of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination.
 - If the MOU is terminated by the BFA or the State as provided herein, all finished or unfinished documents, information, or reports prepared under this MOU shall become the property of the State and shall be turned over to the State immediately.
2. Changes - The State or the BFA may, from time to time, request changes in the scope of the services to be performed hereunder. Such changes which are mutually agreed upon by and between the State and BFA shall be incorporated in written amendments to this MOU, which shall be executed by both parties.
3. Personnel
 - The BFA and its subcontractors represent that they have, or will secure at their own expense, all personnel required in performing the services under this MOU.

Initials JKW
Date 12-23-2021

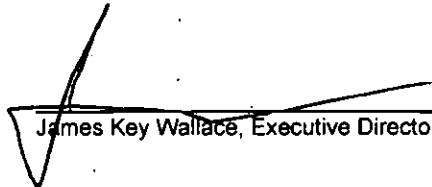
- All of the services required hereunder shall be performed by the BFA or the State, or under the State's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 - The State agrees that the BFA may subcontract their scope of work if needed. However, none of the work or services covered by this MOU shall be subcontracted without the prior written approval of the State. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this MOU.
4. Assignment of MOU - The BFA shall not assign any interest in this MOU and shall not transfer any interest in the same without the prior written consent of the State thereto.
 5. Reports and Information - The BFA, at such times and in such forms as the State may require, shall furnish to the State such periodic reports as the State may request pertaining to the work or services undertaken pursuant to this MOU, and obligations incurred or to be incurred in connection therewith, and any other matters covered by this MOU.
 6. Findings Confidential - All the reports, information, data, etc., prepared or assembled by the BFA under this MOU are confidential, except as otherwise provided under applicable law, including RSA 91-A, and the BFA agrees that they shall not be made available to any individual or organization without the prior written approval of the State.
 7. Compliance with Local Laws - The BFA shall comply with applicable laws, ordinances and codes of the State and its local governments.
 8. Interest of the BFA - No member, officer, employee, or agent of the BFA who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this MOU and the BFA shall take appropriate steps to assure compliance.

PART IV

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed the day and year first above written.



Taylor Caswell, Commissioner, BEA



James Key Wallace, Executive Director, NH BFA

1st Stacie M. Mason

Authorized Official of the Attorney General

Authorized Official of the New Hampshire Governor
and Executive Council