

# cash collateral support



## program guidelines





table of contents

1	Overview	2
2	Program Description	2
3	Application	2
4	Credit Enhancement Levels	3
5	Collateral Support Examples	3
6	Credit Enhancement Terms and EXTensions	3
7	Security and Loan Documents	4
8	Reporting and Notification	4
9	Eligible Lenders	5
10	Eligible Borrowers	5
11	Eligible Loans	5
12	Ineligible Borrowers	6
13	Ineligiblite Uses	7
14	Other Requirements	7

# cash collateral support program guidelines

## section 1 overview

Colorado Housing and Finance Authority (CHFA) is the program manager for the Cash Collateral Support (CCS) program under contract with the Colorado Office of Economic Development and International Trade (OEDIT) and the Colorado Economic Development Commission (EDC).

CHFA, as program manager, is responsible for: (1) managing the CCS program for OEDIT and EDC, (2) working with lenders to use CCS, and (3) connecting businesses needing collateral support with lenders using CCS.

CCS assists small and medium sized businesses operating in Colorado that are unable to secure credit due to collateral shortfalls. Under CCS, a cash deposit of up to 25 percent of the loan amount is pledged as additional collateral to lenders in order to help business borrowers meet the lender's collateral requirements and secure credit. Lenders may use CCS for most types of business loans or credit facilities, including start-up loans, working capital loans, lines of credit, term loans, real estate loans, and letters of credit. Lenders, business borrowers, and loans using CCS must meet the program eligibility requirements.

Loans or credit facilities from \$75 thousand to \$5 million are eligible for CCS; however, deposit terms may vary depending on the loan amount, available collateral, and amount of cash collateral enhancement requested under CCS.

CCS is funded through a grant made available under the State Small Business Credit Initiative (SSBCI), a program created by the Small Business Jobs Act of 2010 to strengthen state programs that support lending to small businesses and manufacturers. Colorado, through OEDIT, applied for and was awarded SSBCI funding on October 11, 2011, a substantial portion of which has been designated for use under CCS.

## section 2 program description

Under CCS, lenders may apply to CHFA for cash collateral to support business loans that do not meet the lender's collateral requirements. To qualify for CCS funds, the lender, borrower, and loan must meet those certain eligibility requirements discussed below. Applicants are encouraged to contact CHFA for assistance with determining if a lender, borrower, or loan is eligible and qualifies for CCS.

## section 3 application

Lenders may apply for cash collateral by completing a CCS application and submitting the necessary documentation as outlined in the application to CHFA. Complete applications may be mailed, faxed or emailed to the CHFA Business Finance Department for review. Applications are available online at CHFA's website ([www.chfainfo.com/ccs](http://www.chfainfo.com/ccs)).

As part of the lender's application, the lender will be asked to demonstrate that the loan has:

1. A collateral shortfall,
2. A reasonable expectation the business loan will be repaid, and
3. An economic benefit to the community or State of Colorado.

## section 4 credit enhancement levels

As explained above, lenders may use CCS to increase the amount of collateral securing new small and mid-sized business loans and credit facilities when the business borrower is unable to meet the lender's collateral requirements. Loans and credit facilities up to \$5 million are eligible for enhancement. The chart below shows the maximum levels of support available according to the loan amount. Borrower fees vary based on the level of collateral support requested (see the example chart below). Borrower fees may be included in the lender's loan proceeds.

loan amount	maximum collateral support (% of loan amount)	maximum enhancement	borrower fees
\$75,000 - \$1 million	25%	\$150,000	5% of Enhancement
\$1 – 3 million	15%	\$300,000	5% of Enhancement
\$3 – 5 million	10%	\$500,000	5% of Enhancement

## section 5 collateral support examples

The chart below shows the total enhancement and borrower fee based on the loan amount and level of collateral support.

loan amount	collateral support (% of loan amount)	enhancement	borrower fee (% of loan amount)
\$100,000	25%	\$25,000	\$1,250 (1.25%)
\$100,000	10%	\$10,000	\$500 (.5%)
\$500,000	25%	\$125,000	\$6,250 (1.25%)
\$500,000	10%	\$50,000	\$2,500 (.5%)
\$1,500,000	15%	\$225,000	\$11,250 (.75%)
\$1,500,000	10%	\$150,000	\$7,500 (.5%)
\$5,000,000	10%	\$500,000	\$25,000 (.5%)

## section 6 credit enhancement terms and extensions

The initial term for the cash collateral deposit is three years. The lender may at the end of the initial term request an extension and CHFA will review such extension request to determine if there continues to be a collateral shortfall; however, CHFA is not obligated to approve such request. If CHFA determines there is a collateral shortfall, the cash collateral deposit may be adjusted to reflect the actual collateral shortfall, and a fee equal to 1 percent of the enhancement may be charged to the lender annually until the collateral account is released (Annual Fee). The lender may pay for the Annual Fee by adding the cost to the borrower's interest rate, charging the borrower a one-time fee, or using the lender's funds to pay the fee. The chart below outlines CCS terms based on the level of collateral support requested.

collateral support	initial term	ongoing fee
Less than or equal to 10% of loan amount	3 years, with option to extend	Ongoing fee may be waived for up to 7 years
More than 10% of loan amount	3 years, with option to extend	1% of Enhancement each year after term expires

# cash collateral support program guidelines

At any time, whether within the three-year term or if an extension is approved, when the loan-to-value of collateral reaches the lender's normal lending requirements, as determined by the lender's normal lending guidelines, CHFA has the option to withdraw the funds in the cash collateral deposit account and recycle the funds into the CCS program in accordance with the CCS Deposit Agreement between lender and CHFA (Deposit Agreement).

## section 7 security and loan documents

CHFA will provide an approval letter and a copy of the Deposit Agreement to the lender for each approved application. The Deposit Agreement will describe the deposit, interest accrual, and pledge restrictions and will contain the borrower and lender certifications, as outlined below. The Deposit Agreement, including completed lender and borrower certification attachments, will be fully signed at loan closing, and returned to CHFA shortly after closing.

CHFA will deposit the cash collateral into the account being pledged as collateral prior to, but not earlier than five business days of the loan closing, unless CHFA deems additional time is necessary for the lender to perfect its security interest in the pledged account. If the lender has more than one loan under CCS, CHFA may, if agreed upon by the Lender, aggregate all of the cash collateral allocated to such lender for each of its CCS loans into one account.

The lender's loan or credit facility shall be evidenced by a loan agreement, note, and other documentation; if secured, secured by such security agreements, real estate mortgages, or hypothecations; if guaranteed, guaranteed by such agreements evidencing the guarantees (collectively, the "Loan Documents"). The Loan Documents shall be dated on or about, but at any event after the date of the Deposit Agreement. The original Loan Documents shall be retained by the lender, and copies of all Loan Documents shall be forwarded to CHFA upon execution.

## section 8 reporting and notification

The Deposit Agreement will explain the lender's reporting requirements in detail. In general, the lender will be required to provide:

1. Quarterly reports to CHFA within 10 days after the last calendar day of each calendar quarter, and
2. Annual reports to CHFA within 15 business days after the last calendar day of each calendar year.

Reporting will be done in accordance with the Deposit Agreement in such form as required by CHFA.

## section 9 eligible lenders

Eligible Lenders include banks and Community Development Financial Institutions as defined in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702). Each Eligible Lender participating in the CCS must provide the following certifications to CHFA:

1. The loan has not been made in order to place under the protection of CCS prior debt that is not covered under CCS and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender;
2. The loan is not a refinancing of a loan previously made to that borrower by the financial institution lender or an affiliate of the financial institution lender. This limitation does not prohibit a financial institution lender from originating a new loan under CCS and subsequently refinancing the same loan under CCS; or enrolling or refinancing previously made loans from another, non-affiliated financial institution into CCS; and
3. No Principal of the financial institution lender has 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)]<sup>1</sup>.

## section 10 eligible borrowers

Eligible Borrowers include corporations, sole-proprietors, partnerships, nonprofits, limited liability companies, and others operating in the State of Colorado. Permissible borrowers include state-designated charitable, or other nonprofit or eleemosynary institutions, government-owned corporations, and consumer and marketing cooperatives provided the loan is for a “Business Purpose” as defined below. To be an Eligible Borrower, the business must:

1. Have no more than 750 employees, and
2. Be legally allowed to operate in the State of Colorado.

Borrowers must provide the following certifications in the form provided by CHFA to the lender at the time of closing:

1. The loan proceeds will be used for a Business Purpose (defined below), and
2. The loan proceeds will not be used for Ineligible Uses (defined below).

## section 11 eligible loans

To be an Eligible Loan, the loan must meet the following requirements:

1. Principal loan amount and total financing (public and private) made available to borrower at time of loan closing must not exceed \$20 million (this applies in cases where the Eligible Loan is part of a larger transaction);
2. Cash collateral deposits cannot exceed 80 percent of the lender’s loan amount throughout the life of the loan;
3. If CCS is used with other credit enhancements, the lender must demonstrate its loan has at least 20 percent of exposure to the borrower; and

---

<sup>1</sup> For the purposes of this certification, “Principal” is defined as if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20 percent or more ownership interest in the partnership; and if a corporation, limited liability company, association, or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20 percent or more of the ownership stock or stock equivalent of the entity.

# cash collateral support program guidelines

4. Loan proceeds must be used for a “Business Purpose” (defined below).

A Business Purpose includes, but is not limited to:

1. Startup costs;
2. Working capital;
3. Business procurement;
4. Franchise fees;
5. Equipment;
6. Inventory; or
7. Purchase, construction renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes.

The definition of Business Purpose excludes activities that relate to acquiring or holding passive investments such as: commercial real estate ownership, the purchase of securities, and lobbying activities [as defined in Section 3 (7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended].

The unguaranteed portions of SBA, USDA, or Tribal Government guaranteed loans are not eligible for CCS without the prior written consent of CHFA. The US Treasury must also approve all transactions where CHFA uses CCS for the unguaranteed portion of SBA, USDA, or Tribal Government guaranteed loans.

## section 12 ineligible borrowers

1. An executive officer, director, or principal shareholder of the financial institution lender<sup>2</sup>; or
2. A related interest of an executive officer, director, principal shareholder, or member of the immediate family of any of them; or
3. A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; or
4. A business that earns more than half of its annual net revenue from lending activities, unless the business is a non-bank or non-bank holding company Community Development Financial Institution; or
5. A business engaged in pyramid sales, where a participant’s primary incentive is based on the sales made by an ever-increasing number of participants; or
6. A business engaged in activities that are prohibited by federal, state, or other applicable law in the jurisdiction where the business is located or conducted; or

---

<sup>2</sup> For the purposes of the borrower restrictions herein, the terms “executive officer”, “director”, “principal shareholder”, “immediate family”, and “related interest” refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

# cash collateral support program guidelines

7. A business engaged in gambling enterprises, unless the business earns less than 33 percent of its annual net revenue from lottery sales; or
8. Businesses in which a principal of the borrowing entity has 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)]<sup>3</sup>.

## section 13 ineligible uses

Borrowers using CCS must certify that they will not use the loan proceeds for any of the following Ineligible Uses:

1. Repayment of delinquent federal or state income taxes unless the borrower has a payment plan in place with the relevant taxing authority; or
2. Repayment of taxes held in trust or escrow, e.g., payroll or sales taxes; or
3. Reimbursement of funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
4. Purchase of any portion of the ownership interest of any owner of the business.

## section 14 other requirements

In addition to compliance with those certain requirements listed above and compliance with all applicable federal and state laws, regulations, ordinances, and executive orders, additional restrictions on the eligibility of lenders, borrowers, or loans not inconsistent with the provisions and purposes of these guidelines may apply.

---

<sup>3</sup> For the purposes of this certification, principals is defined as: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.

# cash collateral support



## program guidelines

1981 Blake Street  
Denver, Colorado 80202

303.297.chfa (2432)  
800.877.chfa (2432)

[www.chfainfo.com](http://www.chfainfo.com)

348 Main Street  
Grand Junction, Colorado 81501

970.241.2341  
800.877.8450



*financing the places where  
people live and work*