Report of the Vermont State Auditor

DOUGLAS R. HOFFER
Vermont State Auditor

COVID-19 Emergency Economic Recovery Grant Program: Agency of Commerce and Community Development

Some Ineligible Businesses Received Awards and Round 2.0 Awards Increased Profitability for Many of the Businesses Reviewed Instead of Redressing Financial Harm

September 21, 2021

Rpt. No. 21-04

DOUGLAS R. HOFFER
Vermont State Auditor

Mission Statement

The mission of the Auditor's Office is to hold State government accountable by evaluating whether taxpayer funds are being used effectively and identifying strategies to eliminate waste, fraud, and abuse.

This report is a work of the Office of the State Auditor, State of Vermont, and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from the State of Vermont or the Office of the State Auditor. However, because this work may contain copyrighted images or
other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately. Please contact the Office of the State Auditor if you have questions about reproducing this report

DOUGLAS R. HOFFER
Vermont State Auditor

132 STATE STREET • MONTPELIER, VERMONT 05633-5101
(802) 828-2281 • TOLL-FREE IN VT: (877) 290-1400 • FAX: (802) 828-2198
AUDITOR@VERMONT.GOV • WWW.AUDITOR.VERMONT.GOV

Dear Colleagues,

This is the first of two reports assessing the State's use of the federal Coronavirus Relief Fund (CRF) to aid businesses and health care providers suffering financial harm from the COVID-19 pandemic. Combined, the State expended about $461 million for the Emergency Economic Recovery Grant (ERG) program (Rounds 1.0 and 2.0) and the Healthcare Provider Stabilization Grant program. This represents 37 percent of the $1.25 billion of CRF received by the State.

The ERG program was intended to provide emergency assistance to businesses in need. The Agency of Commerce and Community Development (ACCD) and the Department of Taxes each administered the ERG program for different business types and moved rapidly to get the legislatively established program up and running and issue awards to businesses. This report is limited to ACCD's administration of the ERG program.

To be eligible for an ERG award funded with CRF, businesses had to meet certain criteria established by federal and state legislation and ACCD guidelines. ACCD assessed businesses' eligibility based on information submitted in applications and dispersed approximately $117 million to 2,278 businesses through the ERG program.

The United States Government Accountability Office has acknowledged that some level of risk may be acceptable in an emergency but stresses that strong internal controls help ensure the emergency relief funds are appropriately safeguarded. This report identifies an issue with program design that risked recapture of funds by the U.S. Treasury and internal control weaknesses that enabled awards to businesses that did not meet ACCD's eligibility requirements.

Most troubling to me is the program design flaw that ACCD should have addressed, but did not, once alerted to it by the State's COVID-19 Financial Office in September 2020. The initial Round 1.0 ERG award application required businesses to show a 75 or 50 percent revenue loss due to COVID-19 for just one month. This qualified businesses for award amounts that in some cases exceeded the COVID-19 related revenue losses the businesses reported in ACCD's application system. Specifically, **ACCD paid 401 businesses $4.4 million more than the one month of revenue losses reported by these businesses in Round 1.0.**

Payments that exceed a demonstrated loss may violate federal rules for using CRF which specified that assistance to businesses be for reimbursement of the costs of business interruption caused by COVID-19. **Award amounts above a business' revenue loss may have to be repaid by Vermont taxpayers**. The State's COVID-19 Financial Office (CFO) evaluated the ERG program shortly after the program started and concluded that the use of federal COVID-19 funds "appears to only be appropriate to cover the losses that a business has incurred/will incur due to COVID-19." The CFO required ACCD to ensure awards did not exceed businesses' losses incurred due to COVID-19 business interruptions. Businesses were required to submit financial documents along with their ERG application and these financial documents included information

DOUGLAS R. HOFFER
Vermont State Auditor

132 STATE STREET • MONTPELIER, VERMONT 05633-5101
(802) 828-2281 • TOLL-FREE IN VT: (877) 290-1400 • FAX: (802) 828-2198
AUDITOR@VERMONT.GOV • WWW.AUDITOR.VERMONT.GOV

for additional months not recorded in the ERG application. We reviewed these records for 11 businesses **and found that only five businesses demonstrated additional revenue losses that justified the award amount.** More than a year after being informed of this flaw, ACCD has not provided any evidence that they have taken steps to address the issue.

Internal control weaknesses increased the potential that ineligible businesses could receive awards in the first place. In light of the speed with which they wished to distribute funds, for example, ACCD decided to rely on businesses self-certifications rather than perform independent validation for some of the eligibility requirements established by ACCD. In addition, guidance for ACCD staff and partner organizations reviewing applications wasn't always clear.

Objective 2 of this report evaluates the methodology ACCD developed to calculate a business's "need" and compares that to an option that ACCD considered but rejected.

We find that **ACCD's use of revenue loss to assess financial harm in Round 2.0 was not cost-effective for most of the 57 businesses we reviewed because ACCD gave awards to many businesses that did not have a need based on profitability while other businesses still had an unmet need.** For the selected businesses (which comprised 38% of total need calculated by ACCD using revenue loss and received 17% of Round 2.0 awards), we compared the unmet need ACCD estimated using revenue loss with the unmet need we calculated based on changes in the businesses' adjusted net operating income, a measure of profitability.[1]

The revenue loss approach resulted in a total estimated need that was much higher than what we calculated using net operating income. Under ACCD's method, the total estimated need for the 57 businesses was just over $130.3 million. Under the alternative method, it was only $14.7 million. That's almost 90 percent less.

Although the businesses we reviewed did report a decline in revenue, many also reduced their expenses. **Lower expenses combined with COVID-19 assistance from other sources meant that 16 of the 57 businesses we reviewed were more profitable in 2020 compared to 2019. Yet these businesses received $3.7 million from the ERG program. Another 22 businesses received $4.8 million of Round 2.0 awards which was about $3.0 million more than needed to offset profitability declines.** The other 19 businesses did not receive sufficient ERG awards to address their unmet need when adjusted net operating income is used to measure economic loss.

Notwithstanding revenue losses, fully two-thirds of the businesses in our selection were more profitable in 2020 than in 2019 thanks in part to ERG

1 For the purposes of this audit, "adjusted net operating income" was calculated from financial records submitted by businesses as part of the application. We used reported net operating income and added back any depreciation and amortization reported by the business. This was done because depreciation and amortization are "non-cash" expenses that reduce a business's reported income but do not represent money paid by the business in that period.

DOUGLAS R. HOFFER
Vermont State Auditor

132 STATE STREET • MONTPELIER, VERMONT 05633-5101
(802) 828-2281 • TOLL-FREE IN VT: (877) 290-1400 • FAX: (802) 828-2198
AUDITOR@VERMONT.GOV • WWW.AUDITOR.VERMONT.GOV

awards. I question whether this is consistent with the intent of the legislative requirement to provide funding to "businesses that have suffered economic harm due to the COVID-19 public health emergency and economic crisis."[2]

ACCD's decision to use revenue losses rather than changes to adjusted net operating income meant that businesses that were able to offset revenue losses by reducing expenses were treated the same as businesses which faced a greater risk of closing because they were unable to reduce expenses. I question whether this was equitable and cost-effective.

And while ACCD's method did not run afoul of Federal rules, it clearly resulted in a less than optimal distribution of available funds. **To the extent funds went to businesses that remained profitable or were able to reduce their exposure to COVID-related profitability declines, that money was not available to businesses seriously at-risk of failure.** This is significant and has implications that should be considered by the Legislature and the Administration when making decisions about future financial assistance programs for businesses and other entities.

We made several recommendations as a result of our work. Most are directed to ACCD and involve coordinating with relevant state entities to determine the appropriate actions to take for businesses that received ERG awards but did not meet eligibility criteria. We also recommend ACCD assess whether it has sufficient documentary evidence to support the awards to the 401 businesses that reported losses in ACCD application system lower than the award amount received. Additional recommendations relate to any future business assistance programs and address how to strengthen procedures and assess financial harm. We also recommend that the Legislature require ACCD to provide periodic reports addressing the status of the agency's post-award monitoring program and action taken in response to audit recommendations.

I would like to thank the staff at ACCD for their cooperation during this audit. This report is available on the State Auditor's website, http://auditor.vermont.gov/.

Sincerely,

Doug Hoffer

DOUGLAS R. HOFFER
State Auditor

2 Act 154 Sec. B.1102

DOUGLAS R. HOFFER
Vermont State Auditor

132 STATE STREET • MONTPELIER, VERMONT 05633-5101
(802) 828-2281 • TOLL-FREE IN VT: (877) 290-1400 • FAX: (802) 828-2198
AUDITOR@VERMONT.GOV • WWW.AUDITOR.VERMONT.GOV

ADDRESSEES

The Honorable Jill Krowinski
Speaker of the House of Representatives

The Honorable Becca Balint
President Pro Tempore of the Senate

The Honorable Phil Scott
Governor

Ms. Susanne Young
Secretary, Agency of Administration

Mr. Adam Greshin
Commissioner, Department of Finance and Management

Ms. Lindsay Kurrle
Secretary of Agency of Commerce and Community Development

Ms. Joan Goldstein
Commissioner, Department of Economic Development

Contents

Highlights

Vermont created an Economic Recovery Grant (ERG) program in June 2020 to assist businesses suffering economic harm from the COVID-19 pandemic. The Emergency ERG program (Round 1.0) and the Expanded Emergency ERG program (Round 2.0) operated between June 2020 and December 2020. In total, the State allocated approximately $315 million for the two rounds of the ERG program. This money came from the $1.25 billion in federal assistance Vermont received through the Coronavirus Relief Fund.

To qualify for an award, Vermont businesses had to demonstrate lower revenue in a period of 2020 compared to the same period in 2019. Businesses also needed to meet various other criteria established through legislation and program guidelines. Both the Agency of Commerce and Community Development (ACCD) and the Department of Taxes (VDT) were responsible for administering the ERG program. Businesses that collected Rooms and Meals Tax or Sales and Use Tax were directed to apply through VDT and all other businesses were directed to apply through ACCD.[3] ACCD awarded approximately $117 million of the total program funds to 2,278 businesses and this report focuses on ACCD's administration of the ERG program.

We decided to conduct this audit based on the risks to program integrity associated with distributing such a substantial amount of money in a relatively short period and concerns expressed during legislative hearings about the method ACCD used to determine award amounts.

The objectives of this audit were to: (1) assess whether ACCD ensured that only eligible businesses received payments under the ERG program, and (2) determine whether ACCD's use of revenue loss to assess financial harm effectively measured businesses' need.[4]

3 Other state organizations awarded financial assistance to businesses as well. For example, as of September 13, 2021, the State had awarded approximately $146 million through the Health Care Provider Stabilization Grant program, which provided financial assistance to health care providers experiencing hardship due to the COVID-19 state of emergency.

4 Appendix I details the scope and methodology of the audit. Appendix II contains a list of abbreviations used in this report.

Objective 1 Finding

ACCD developed procedures to assess businesses' eligibility for ERG awards but relied on businesses' self-certification for some eligibility criteria and the procedures were not always adequate to verify other eligibility criteria. We also found that ACCD staff responsible for reviewing ERG applications did not always follow the procedures. As a result of these issues, we identified numerous instances where ineligible businesses received awards.

For example, businesses had to have paid all taxes or have a documented payment plan for past-due taxes (e.g., good standing with VDT) to be eligible for an ERG award. ACCD required businesses to self-certify they met this requirement as part of the application process but ACCD decided not to do any verification. We asked VDT to assess the good standing for 80 of 321 businesses that received ERG awards and had outstanding tax debt in March 2021.[5] According to VDT, more than half of these businesses (49) were not in good standing at the time they submitted their ERG application. In total, these businesses received $2.7 million from the ERG program.

Additionally, ACCD's calculation of award amounts in Round 1.0 was not based on businesses' demonstrated losses due to COVID-19. Instead, ACCD calculated award amounts for businesses as 10 percent of the business' 2019 revenue. As a result, it was possible for award amounts to exceed the revenue losses businesses reported in ACCD's application system. The State's COVID-19 Financial Office(CFO) identified the disconnect between revenue loss and the award amount calculation as a risk noting that the use of federal COVID-19 funds "appears to only be appropriate to cover the losses that a business has incurred/will incur due to COVID-19."

Approximately 700 businesses only received awards in Round 1.0, and more than half (401) received awards that exceeded the amount of revenue loss they reported in ACCD's application system. Overall, these businesses received awards that were $4.4 million above the reported loss. Businesses were required to submit financial documents along with their ERG application and these financial documents included information for additional months not recorded in the ERG application. We reviewed these records for 11 of the 401 businesses **and found that only five businesses demonstrated additional revenue losses that justified the award amount. ACCD has not reviewed these records even though the State's CFO highlighted the risk and required that it be addressed more than 10 months ago in September 2020. The State may have to repay the federal government award amounts that exceeded business's losses if ACCD does not have documentation to justify the award amount.**

[5] VDT used its records of businesses with tax debt in March 2021 versus at the time of application submission because it would have taken significant VDT staff time to produce lists of businesses with tax debt at the time of each application period which in some cases was more than 9 months prior to us contacting VDT. Because of this limitation, its possible other businesses were not in good standing at the time applications were submitted. We used the March 2021 data to identify businesses with a higher risk of having had tax debt at the time of ERG application submission. We selected 80 based on a variety of factors and asked that VDT assess the selected businesses for good standing at the time of application submission.

The emergency nature of the funding and the speed at which ACCD implemented and expanded the ERG program left ACCD susceptible to making payments in incorrect amounts or to ineligible recipients. **The United States Government Accountability Office (GAO) has acknowledged that some level of risk may be acceptable in an emergency but indicated that strong internal controls help ensure the emergency relief funds are appropriately safeguarded. However, ACCD failed to develop adequate procedures to ensure businesses met all the eligibility criteria.**[6] While we recognize the importance of providing timely assistance to businesses during the pandemic, there are measures that ACCD could have taken to reduce the risk of awarding funds to businesses that misrepresented their eligibility. For example, ACCD could have required that a sample of applicants' self-certifications be validated by staff reviewing applications. Per various internal control standards, it's a generally accepted approach to assess risk, consider cost versus benefits when selecting and developing internal controls, and to make choices as to how exact a control will be in preventing or detecting an unintended event or result.

Objective 2 Finding

State legislation establishing Round 2.0 of the State's ERG program required businesses to meet certain eligibility criteria, including that businesses demonstrate need based on economic loss due to the COVID-19 public health emergency from March 1, 2020 to December 1, 2020.[7] ACCD determined need for each business by comparing a business' revenue between March and September in 2019 to the same period in 2020. Any decrease in revenue not covered by other COVID-19 assistance was considered the business' unmet need.

Based on our review of a non-statistical selection of 57 businesses, ACCD's use of revenue loss to assess economic loss in Round 2.0 did not effectively evaluate these businesses' needs.[8] For the 57 businesses selected, we compared the unmet need ACCD calculated with the unmet need we calculated based on changes in the businesses' adjusted net operating income, a measure of profitability.[9]

When calculated using adjusted net operating income, 16 of the 57 businesses did not have an unmet need because the businesses' profitability had increased from 2019 to 2020 or other COVID-19 financial assistance offset decreases in profitability. These 16 businesses received $3.7 million from Round 2.0 of the ERG program. When the ERG award amount is considered, an additional 22 businesses ended up in a better financial position in 2020 than

6 United Sates Government Accountability Office, GAO-21-472T.

7 Act 154 (2020) Sec. B. 1102.

8 The 57 businesses represented 17 percent of the total awards from Round 2.0 and included all 27 businesses that received the maximum award of $300,000 in Round 2.0. Because we did not use a statistical sampling approach, the results cannot be projected to all ACCD awards to businesses. See Appendix III for more details about the demographics of the selected businesses.

9 For the purposes of this audit, "adjusted net operating income" was calculated from financial records submitted by businesses as part of the application. Specifically, we used reported net operating income and added back any depreciation and amortization reported by the business. This was done because depreciation and amortization are "non-cash" expenses that reduce a business's reported income but do not represent money paid by the business in that period.

in 2019. These businesses received $4.8 million of ERG awards which was about $3.0 million more than needed to offset their profitability declines.

In November 2020 during Joint Fiscal Committee (JFC) meetings, the Legislature's economist and Joint Fiscal Office staff proposed using changes in business profit to calculate unmet need, which would consider how businesses' revenue and expenses changed. A committee member described different survival techniques that businesses might use so that those that were able to cut expenses wouldn't receive state support, when those who did not cut expenses could get an award. An ACCD senior official stated that because of this, ACCD believed that the only equitable way to treat every business the same was to use revenue loss to determine need. According to Act 154, ACCD had discretion to determine how to best measure need and the JFC did not request that ACCD use a methodology other than revenue loss. However, ACCD's decision to use revenue meant that businesses which were able to offset revenue losses by reducing expenses would be treated the same as businesses which faced a greater risk of closing because they were unable to reduce expenses. As shown in our analysis, ACCD gave awards to some businesses that did not have a need based on profitability while other businesses still had an unmet need.

Recommendations

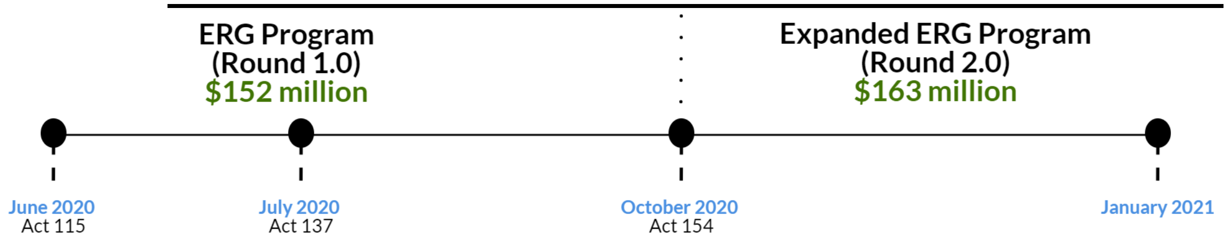
We recommend ACCD coordinate with relevant entities to determine the appropriate actions to take for businesses that did not meet all eligibility criteria. This could include ensuring the businesses resolve the issue that caused them to be ineligible or recouping award amounts. We also recommend ACCD ensure it has sufficient documentation to justify the award amount for the businesses whose awards in Round 1.0 exceeded the loss reported in the application system. Additional recommendations relate to any future versions of the ERG program or other business assistance programs and address how to strengthen review procedures and assess businesses' financial harm.

Background

To preserve public health and safety in the face of the COVID-19 pandemic, Vermont required some businesses to suspend in-person operations while others could remain open but with reduced capacity. Customer behavior also changed as the State directed Vermonters to stay at home except for essential activities. Taken together, these changes resulted in lower revenues for many businesses.

Vermont established an Emergency Economic Recovery Grant (ERG) program in June 2020 to assist Vermont businesses suffering financial harm due to COVID-19.[10] As shown in Exhibit 1, the ERG program was funded in two rounds. The State initially allocated $70 million to the ERG program (Round 1.0) and added funds to this round in July 2020.[11] In October 2020, the State created an Expanded Emergency ERG program (Round 2.0).[12] In total, the State allocated approximately $315 million to the ERG program.[13]

Exhibit 1: Timeline of funding legislation for the ERG program rounds



The State used a portion of the $1.25 billion in federal assistance Vermont received through the Coronavirus Relief Fund (CRF) to fund the ERG program. According to the federal Coronavirus Aid, Relief, and Economic Security Act which established the CRF, these funds could only be used by the State for necessary expenditures incurred due to COVID-19, incurred between March 1, 2020 and December 30, 2020, and not accounted for in budgets passed before March 27, 2020.[14] Per guidance from the United States Department of the Treasury, CRF expenditures may include grants to businesses to reimburse the costs of business interruption caused by required closures, voluntary closures to promote social distancing, or decreased customer demand as a result of the COVID-19 public health

10 Act 115 established the ERG program and was signed by the Governor on June 19, 2020.

11 Act 137 was enacted in July 2020 and added $82 million to the program.

12 Act 154, enacted in October 2020, added $76.7 million. The Joint Fiscal Committee added an additional $75 million in November 2020 and $11.5 million in December 2020.

13 In April 2021, the State allocated funding to a new business assistance program called Economic Recovery Bridge Grants. This program was not assessed as part of this audit.

14 Subsequently, the United States Congress extended the deadline for using CRF funds to December 31, 2021.

emergency and the program should be tailored to assist those businesses in need of such assistance.[15]

Aspects of the ERG program changed with new state legislation. For example, in Round 1.0 businesses initially had to demonstrate a 75 percent reduction in revenue in any one-month period between March 1, 2020 to September 1, 2020 when compared to the same period in the previous year. The required percentage revenue loss was later lowered to 50 percent, and then removed entirely in Round 2.0.

Both the Agency of Commerce and Community Development (ACCD) and the Department of Taxes (VDT) were responsible for administering the ERG program. Businesses that collected Rooms and Meals Tax or Sales and Use Tax were directed to apply through VDT and all other businesses were directed to apply through ACCD. ACCD awarded about $117 million (37 percent) of the total program funds to 2,278 businesses and this report focuses on ACCD's administration of the ERG program.

Objective 1: Shortcomings in Procedures Led to Payments to Some Ineligible Businesses and Potential Overpayments to Others

To be eligible for an ERG award funded with CRF, businesses had to meet certain criteria established by federal and state legislation and ACCD guidelines. ACCD assessed businesses' eligibility based on information submitted in applications and paid approximately $117 million to 2,278 businesses through the ERG program. We compared select application data for all businesses to various data sets such as the Secretary of State's business registration database and reviewed 33 businesses' applications. Based on these analyses, we found that ACCD awarded more than $6.2 million to 194 businesses that did not meet all eligibility criteria and about $1.1 million to 7 businesses for which it is not clear that eligibility criteria were met such as domicile in Vermont. Additionally, ACCD awarded $387,000 to four businesses even though the businesses only submitted partial financial information. ACCD's review manual did not indicate eligibility could be assessed for a portion of a business and applicant guidance did not advise that portions of a business could qualify for ERG. As a result, it appears the award amounts for these four businesses were not accurate. These issues occurred because ACCD lacked procedures to verify that businesses met

[15] United States Department of the Treasury, Coronavirus Relief Fund program guidance and frequently asked questions 24 and 25.

certain eligibility criteria and aspects of ACCD's procedures for reviewing applications were vague. Lastly, we noted that staff did not always follow application review procedures.

We also found that ACCD paid 401 businesses $4.4 million more in ERG awards than the one month of revenue losses reported by these businesses in the application system in Round 1.0.[16] This occurred because ACCD calculated awards in Round 1.0 as 10 percent of 2019 revenue, generally up to $50,000, rather than basing awards on the revenue decline reported in the application system. According to the State's COVID-19 Financial Office(CFO), ACCD's award methodology raises a red flag for CRF eligibility because there is potential that awards could exceed losses incurred due to COVID-19 business interruptions. [17] Specifically, the CFO noted that "use of CRF funds appears to only be appropriate to cover the losses that a business has incurred/will incur due to COVID-19." Businesses were required to submit monthly profit and loss statements for periods beyond the one month reported in the application system and it is possible these financial records demonstrate that the 401 businesses suffered losses at least equal to the ERG awards received. **Although the State's CFO highlighted this risk in September 2020, ACCD has not taken steps to remediate the risk.**[18] **If ACCD does not have adequate evidence to support the amounts awarded, the State may have to repay the federal government award amounts that exceeded business's losses.**

The ERG program was intended to provide emergency assistance to businesses in need and ACCD moved rapidly to get the program up and running and issue awards to businesses. The program's criteria changed multiple times as the State passed new legislation and federal guidelines were revised. This made ACCD's administration of the ERG program more complex. However, the GAO has indicated strong internal controls help ensure that emergency relief funds are appropriately safeguarded. ACCD decided not to include procedures to validate certain eligibility requirements in its guidance for application reviewers and its guidance for application reviewers wasn't always clear. This left ACCD susceptible to making payments in incorrect amounts or to ineligible recipients. Awards to ineligible businesses reduced the amount of funds available to eligible businesses.

[16] Of the 401 businesses, 27 are one of the 194 that did not meet eligibility criteria such as good standing with the Secretary of State. These 27 businesses received about $681,000 of Round 1.0 ERG awards.

[17] The Agency of Administration established the CFO to oversee the distribution of money from the Coronavirus Relief Fund, including ensuring Vermont's compliance with federal and state eligibility, documentation, and auditing requirements of the CRF.

[18] "Response to Grant Questionnaire: Agency of Commerce and Community Development (ACCD) Grant Questionnaire Review" (9/11/2020)

Issues with ACCD's Procedures Resulted in Awards to Ineligible Businesses

The eligibility criteria for the ERG program were set through federal requirements, state legislation, and guidelines developed by ACCD. For example, per state legislation and ACCD guidelines businesses had to:

- Have a demonstrated revenue loss related to COVID-19 (Round 1.0),
- Demonstrate need based on economic loss due to the COVID-19 public health emergency (Round 2.0),
- Be domiciled or have its primary place of business in Vermont,
- Be in good standing with VDT,[19]
- Be in good standing with the Secretary of State,[20]
- Not be in Chapter 7 bankruptcy.[21]

To verify eligibility for ERG awards, ACCD required businesses to complete an online application and submit supporting documentation, such as profit and loss statements and tax returns. ACCD also established procedures to review ERG applications, including a checklist to be completed by staff reviewing applications and internal communication mechanisms that allowed staff to discuss and decide how to handle various situations.

ACCD's procedures were adequate to verify that businesses met some eligibility criteria. For example, to validate the revenue loss reported by businesses, ACCD compared 2019 revenue businesses reported (one month or multiple months from March to September) in ERG applications to the 12-month profit and loss statement required to be submitted. The total revenue from the profit and loss statement was compared to the revenue claimed by the business in their 2019 tax return. This helped reduce the risk that businesses would overstate their 2019 revenue to qualify for a higher award. However, we found that ACCD lacked procedures to verify that businesses met all eligibility criteria and that some procedures were ambiguous.

The issues with ACCD's procedures appear to be the result of several different factors. First, the program was intended to provide emergency assistance to businesses in need. The original expectation was that the CRF funds allocated to the ERG program needed to be used by the end of 2020 and

[19] ACCD defined "in good standing" with VDT as having filed all required tax returns and paid all taxes or having a documented and current payment plan in place for any past due taxes.

[20] According to ACCD's program guidance, a business would be considered "in good standing" with the Secretary of State if the business complied with all legal requirements to retain sole rights to its business name and had the authority to conduct business under its business name within the State of Vermont.

[21] Chapter 7 bankruptcy is a type of bankruptcy in which all nonexempt assets are sold to pay debts.

this deadline created additional pressure to move quickly. As a result, ACCD moved rapidly to get the program up and running and issue awards to businesses. Lastly, the program's criteria changed multiple times as the State passed new legislation and federal guidelines were revised. While determining whether a business suffered economic harm due to COVID-19 was a complex task that required ACCD to review thousands of businesses with different financial structures, ACCD did not develop procedures to validate certain eligibility criteria and the guidance for application reviewers wasn't always clear.

The emergency nature of the funding, the speed at which ACCD implemented and expanded the ERG program, and the issues we found with ACCD's procedures to verify eligibility and determine award amounts left ACCD susceptible to making payments in incorrect amounts or to ineligible recipients. An ACCD official indicated that ACCD commenced the program understanding that some items would be self-certified and knew they would not validate every eligibility criterion. According to the GAO, strong internal controls help ensure that emergency relief funds are appropriately safeguarded. GAO acknowledges that some level of risk may be acceptable in an emergency but indicates an effective internal control system improves accountability and helps reduce risks affecting achievement of an entity's objectives.

ACCD has indicated that post-award follow-up is on-going and provided limited detail of some outcomes from this follow-up. According to a draft of ACCD's compliance monitoring procedures, 231 businesses were selected for follow-up based on criteria such as discrepancies in 2019 annual revenue reported in a business' Round 1.0 and Round 2.0 applications. Businesses selected for monitoring will be subject to a second review of their application data. Depending on the reason a business was selected for monitoring, a business may be subject to additional review and may be asked to provide additional information.

ACCD Lacked Procedures to Validate Some Eligibility Criteria

For some eligibility criteria, ACCD relied on businesses' self-certification that they met the criteria for the ERG program. For example, businesses self-certified they were in good standing with VDT, were not currently in Chapter 7 bankruptcy, were in good standing with the Secretary of State, and complied with all federal, state, and local labor laws. ACCD did not have procedures to validate these self-certifications but a senior ACCD official described limited practices used on an ad hoc basis to research certain information. Specifically, staff may have conducted internet searches and reviewed the Secretary of State's website if doubts surfaced about businesses' certifications.

We compared data in ACCD's application system for all businesses with ERG awards to external data sets, such as the Secretary of State's business registration database, and identified 194 businesses that failed to meet one or more of the eligibility criteria.[22] Our analysis could not identify all inaccurate certifications because data reflecting conditions at the time the business submitted their application was not always readily available for us.[23] Exhibit 2 shows three eligibility criteria for which ACCD did not have procedures requiring verification, the number of businesses that we found did not meet these eligibility criteria, and the total ERG awards these businesses received.

Exhibit 2: Summary of Eligibility Criteria Not Verified by ACCD, Number of Businesses that Did Not Meet Criteria and Amount of ERG Awards

Eligibility Criteria for which ACCD Did Not Require Verification	# of Businesses that Did Not Meet Criteria and Total Award Amount[a]
Good standing with VDT	49 businesses with past due taxes received $2.7 million
Not in Chapter 7 bankruptcy	1 business in Chapter 7 bankruptcy received approximately $6,000
Good standing with Secretary of State	• 86 sole proprietor businesses that had not registered or had inactive registrations received $1.3 million • 62 other businesses that had not registered or had inactive registrations received $2.5 million

[a] Four businesses are in two of the eligibility criteria categories. In total, these businesses received ERG awards of about $355,000.

Good standing with VDT: To identify whether ACCD awarded funds to businesses that were not in good standing with VDT at the application submission date,[24] we requested that VDT compare a list of all businesses that received ERG awards from ACCD to VDT's records of businesses with tax debt in March 2021 and provide us with a list of matches between these data

[22] The selection of 33 businesses included five randomly chosen from each of four groups; 50% revenue loss, 75% revenue loss, Expanded ERG program, or had been labeled as "high risk" by ACCD staff. The remaining 13 applications were judgmentally selected by the audit team.

[23] Data that reflected the conditions at the time businesses applied for ERG awards was not always available. See Appendix I Scope and Methodology for details about the limitations of the available data used in our methodology.

[24] In its program guidelines ACCD defined "good standing" with VDT as having filed all tax returns and taxes paid or having a current, documented payment plan for past due taxes. An application question inquired as to whether the business had unpaid taxes with VDT that are not currently in a payment plan and businesses had to certify on the application that they had filed all tax returns.

sets.[25] From the list of 321 businesses that matched to VDT's tax debt records, we asked VDT to assess good standing for 80 businesses. According to VDT, 49 of the 80 businesses were not in good standing at the time they submitted their ERG application. In total, these businesses received $2.7 million from the ERG program. This included 18 businesses that together owed over $109,000 in past due taxes.[26] The tax due for the other 31 businesses that had not filed required tax returns was unknown. Because of the COVID-19 public health emergency, VDT had temporarily suspended the program that estimated tax due.

Not in Chapter 7 bankruptcy: ACCD awarded more than $6,000 to one business which was in Chapter 7 bankruptcy.

We identified the business in Chapter 7 bankruptcy by comparing all businesses that received an ERG award from ACCD to a list of businesses that had declared bankruptcy in Vermont since January 2018. Since our data was limited to bankruptcies in Vermont, this test would not identify businesses that filed for Chapter 7 bankruptcy in other states.

Good standing with Secretary of State: According to ACCD's program guidelines, to be eligible for ERG, businesses must be in good standing with the Secretary of State. Frequently asked question documents (FAQs) published on ACCD's website explained that good standing with the Secretary of State means the business has complied with all legal requirements to retain sole rights to its business name and has the authority to conduct business under its name in Vermont. Per state law, sole proprietors seeking to do business as a name other than their own personal name must register the business name as an assumed business name with the Secretary of State and business and non-profit entities seeking to do business in Vermont must register the entity with the Secretary of State.

We compared businesses application data to the Secretary of State's business registration data as of February 23, 2021 and found 86 sole proprietors lacked legal authority to do business in Vermont under their business name.[27] The business name was not the sole proprietor's personal name and

[25] VDT used its records of businesses with tax debt in March 2021 versus at the time of application submission because it would have taken significant VDT staff time to produce lists of businesses with tax debt at the time of each application period which in some cases was more than nine months prior to us contacting VDT. Because of this limitation, its possible other businesses were not in good standing at the time applications were submitted. We used the list of 321 businesses that VDT indicated had tax debt as of March 2021 to identify businesses with a higher risk of having had tax debt at the time of ERG application submission. We selected 80 based on a variety of factors and asked that VDT assess the selected businesses for good standing at the time of application submission.

[26] The amount of past due taxes ranged from $115 to $53,922.

[27] Data available from the Secretary of State website provides current registration status. SAO downloaded the data on February 23, 2021, obtaining businesses registration status as of that date. Therefore, registration status was not contemporaneous with the date businesses applied for ERG awards. As a result, our analysis did not identify instances where a business that was active on February 23, 2021 was not active when it applied for ERG.

at the time an ERG application was submitted the business name had not been registered or was no longer registered as an assumed business name with the Secretary of State. These sole proprietors received about $1.3 million of ERG awards. According to the Secretary of State, the statutory concept of good standing is not applicable for sole proprietors. Regardless, according to ACCD's FAQ description, these businesses were not in good standing for the purposes of ERG eligibility because they lacked legal authority to conduct business under their name in Vermont. As of the date of the audit report, we are aware of eight sole proprietors who registered with the Secretary of State after the date of their ERG application.

Another 62 businesses lacked the legal authority to conduct business under their name in Vermont according to ACCD's FAQ description and at the time of application also were not in good standing with the Secretary of State per statutory requirements. Some of these 62 businesses had inactive registrations while others had never registered with the Secretary of State. Although the 62 businesses did not meet ACCD's requirement to be in good standing at the time of application, they received about $2.5 million of ERG awards. As of the date of the audit report, we are aware of seven businesses that remediated their terminated registrations and had active registrations after the date of their ERG application.

ACCD managers said they included this as a requirement for the ERG program in part to reduce the risk that fictitious businesses would get awards. Nothing came to our attention that suggested the 149 businesses were fictitious. However, these businesses misrepresented their eligibility with regard to whether they were authorized to conduct business in Vermont.

In addition to the issues noted above, ACCD awarded nearly $435,000 to three businesses that had been debarred from contracting with the State because of labor law violations.[28] State legislation required ACCD to establish procedures to ensure businesses complied with state and federal employment and labor laws.[29] While ACCD required businesses to self-certify as part of the ERG application that they complied with local, state, and federal labor laws, ACCD did not validate this self-certification. To identify businesses that may have inappropriately asserted compliance with state labor laws, we compared businesses that had received awards to businesses that were included on the State's debarment list because of state labor law violations.

The State's Suspension and Debarment Policy & Procedures specify that grant agreements, contracts, and other agreements must contain a clause that the

[28] One of these businesses was also not in good standing with VDT.

[29] Act 115 (2020), Sec. 4. (a)(7) and Act 137 (2020) Sec. 6. (c).

business is not presently debarred, suspended, nor named on the State's debarment list and requires state entities to verify this by checking the State's debarment list. Since the BGS debarment list is part of the framework that the State uses to ensure state contractors and recipients of state assistance comply with certain state labor laws, the State Auditor's Office (SAO) concluded that checking the debarment list could identify those businesses at higher risk of noncompliance with state labor laws and therefore was consistent with the requirement in the ERG legislation to "ensure grant applicants are in compliance with State and federal employment and labor laws."[30]

While recognizing the importance of providing timely assistance to businesses during the pandemic, there are measures that ACCD could have taken to reduce the risk of awarding funds to businesses that misrepresented their eligibility. For example, ACCD could have required applicants to provide a screen shot of the Secretary of State's website showing their business registration status as evidence of their authority to conduct business in Vermont. Alternatively, ACCD could have required that a sample of applicants' self-certifications be validated by staff reviewing applications. Per various internal control standards, it's a generally accepted approach to assess risk, consider cost versus benefits when selecting and developing internal controls, and to make choices as to how exact a control will be in preventing or detecting an unintended event or result. Specifically, according to the Department of Finance and Management's (DFM) guide "Vermont Internal Control Standards", managers use risk assessment to determine the relative potential for loss in programs and functions, and to design the most cost-effective and productive internal controls. In addition, DFM's primer on internal controls specifies that the frequency of a control should be adequate to detect and act upon questionable items in a timely manner.

Businesses were informed during the application process that if the award was issued due to error, misrepresentation of facts, or fraud, the business would be required to return the award to ACCD. However, eligibility criteria relating to bankruptcy, good standing with VDT, and good standing with the Secretary of State were not required by legislation but were additional eligibility requirements included in ACCD's guidelines. It may therefore be appropriate for ACCD to consider measures other than recoupment to address the businesses' non-compliance with these eligibility criteria. Awards to businesses that did not meet all eligibility criteria reduced the amount of funds available to eligible businesses. If ACCD had implemented procedures that required validation of self-certifications related to good standing,

[30] Ibid.

bankruptcy and compliance with employment and labor laws, the agency could have avoided awards to businesses that misrepresented their status.

Some Procedures Were Not Adequate to Verify Certain Eligibility Criteria

Based on our review of 33 businesses' applications, we noted issues with how ACCD 1) validated businesses were domiciled in Vermont and 2) ensured revenue losses were due to COVID-19. These issues increased the risk that ineligible businesses would be approved for awards or would receive incorrect award amounts.

Domicile in Vermont

To be eligible for an ERG award, businesses had to be domiciled or have their primary place of business in Vermont. Although not defined in legislation establishing the ERG program or in ACCD's application review procedures, ACCD managers said they considered "domiciled" to mean where decisions for the business are made. FAQ's available on ACCD's website during the ERG program stated that if a business were headquartered in Vermont, it would be eligible for an award and if the business operated in more than one state, factors such as where senior officers conduct central business affairs and where books and records are kept are considered to help determine principal place of business.

ACCD's application review procedures required staff to review applicants' Vermont state tax return to verify the business reported a Vermont address. Based on the wording in the procedures, businesses with a Vermont address on their tax return were assumed to be domiciled in Vermont. However, for those businesses that reported a Vermont address, but with operations in multiple states, it's not clear that the business address reported in the tax return correlates with where business decisions are made, where senior officers conduct central business affairs, or where books and records are kept. If the return had an out-of-state address, staff were directed to review the amount of wages and property apportioned to Vermont in the tax return.[31] ACCD's procedures provided no guidance regarding the level of wages and property apportioned to Vermont that would support a conclusion that the business was domiciled or had its primary place of business in Vermont. Without clear guidance, application reviewers could reach different conclusions for the same business.

[31] "Apportionment" is a process to determine how much of a business' profits are taxable in a particular jurisdiction. Vermont uses a formula, based on gross sales, wages, and real property, to calculate the amount of taxes owed by businesses operating in the State.

Additionally, non-profits are generally not required to file a Vermont state tax return, but the application review procedures did not include any direction on how to assess whether these entities met the domicile requirement. There were approximately 200 non-profits and ACCD staff said they used the address on the businesses' federal Form 990 to verify the business was domiciled in Vermont.[32] However, it is not clear how staff resolved domicile discrepancies for non-profits, if any, with out-of-state addresses reported on Form 990 or for those with operations in multiple states.

In our selection of 33 businesses' applications, we noted one non-profit business with a Vermont address according to the Form 990, but the Form 990 also stated that the principal officer and the organization's books and records were in Washington D.C. Another business had a Vermont address, but the state tax return indicated the business had recorded no sales in Vermont and paid less than 20% of total salaries and wages in Vermont. The Secretary of State's business registration database shows that this business is incorporated in Delaware. According to ACCD managers, both were considered domiciled in Vermont because they had a Vermont address on their tax filings, but this does not consider that the businesses operate in multiple states and may not be a measure of the significance of the Vermont operations. These two businesses collectively received more than $350,000 from the ERG program.

Business Explanation of COVID-19 Impact

Federal rules regarding use of CRF required that awards to businesses be due to the impact of COVID-19, such as business interruptions due to COVID-19-related business closures. State ERG legislation specified that awards were for businesses that suffered economic harm due to COVID-19.

In both rounds of the ERG program, ACCD required businesses to self-certify that awards would be used to provide economic support for lost revenues related to the COVID-19 public health emergency. Although ACCD did not have any specific procedures in Round 1.0 to ensure losses were related to COVID-19, businesses had to demonstrate a decline in revenue of at least 50% during one of the months at the start of the pandemic and awards were generally limited to a maximum of $50,000. Based on the significant revenue decline required to qualify for an award, and the required business closures and restrictions on operations in Vermont, ACCD appears justified in assuming that the revenue loss in these early months was due to COVID-19.

In Round 2.0, the requirement that businesses demonstrate a certain percentage decline in revenue was eliminated. ACCD included a section on

[32] Form 990 is the federal return for organizations that are exempt from income tax.

the application where businesses had to describe the impact the COVID-19 pandemic had on the organization's performance. However, the application review procedures related to this section were vague. The review procedures directed staff to consider whether the business' explanation was "reasonable or believable." This is ambiguous and we noted significant differences in the level of detail provided by businesses in their explanations. Some businesses included specific details about the impact to their operations, such as lost contracts or inability to serve customers. Other businesses simply wrote that their operations had been impacted or listed how much revenue had declined without explaining how the decline was due to COVID-19.

In our selection of 33 businesses, we saw one example where staff took extra steps beyond the normal review process, including contacting the state agency that oversaw the business's industry, to determine if the business's reported revenue loss was due to COVID-19. However, we also noted two businesses where the reported loss appeared to be for a reason other than COVID-19 or was temporary and ACCD staff did not seek additional information from the businesses. These two businesses received approximately $320,000 in Round 2.0, but it is not clear their losses resulted from COVID-19.

The first example involves a non-profit business that received funding from various municipalities. The business received the same amount from one municipality in both 2019 and 2020. However, the 2019 payment was received in September and the 2020 was received in February. ACCD calculated revenue loss based on the March – September period, so this revenue was included in the 2019 period but not in the 2020 period. ACCD staff documented in the application review notes that the business' revenue loss was almost entirely explained by this timing difference and that an award would not meet the intent of the program. When describing the impact of COVID-19 on operations, the business explained that their facility was closed for several months and ACCD managers informed SAO the award was appropriate because the closure demonstrated an impact on their business. However, as the ACCD staff noted, the revenue loss was due to the timing difference of when payment was received from a municipality. As a result, it does not appear that the revenue loss reported by the business was related to the closure of the business.

In the second example, a business reported a $4.6 million decline in revenue over the period reviewed by ACCD. However, the business had one month of revenue in the 2019 period that was more than ten times higher than any other month in 2019 and nearly four times higher than any other month in 2020. This one month represented 84 percent of the total revenue reported by the businesses in the period considered by ACCD for the ERG program.

Since the business did not have a month with similarly high revenue in 2020 the business was able to demonstrate a significant revenue loss. However, it is not clear if this decline in revenue resulted from the impact of COVID-19. When describing how COVID-19 had impacted their operations, the business stated that they were unable to deliver and install systems that had already been sold and had to delay recognizing revenue. It is not clear that a delay in recognizing revenue is an impact that warrants an award. However, ACCD did inform businesses in the award letter that they may need to repay the ERG funds if it appears that the ERG award plus any other awards received exceed the aggregate amount of the business's losses in 2020 so if the agency were to conduct follow-up for this business, it may be possible to recoup the award if the delay in revenue recognition was remediated before the end of 2020.

ACCD Staff Did Not Always Follow Procedures

As noted earlier, ACCD had guidelines and a checklist for application reviewers to follow when reviewing applications. Our review of 33 businesses that received awards found several instances where ACCD staff did not follow these procedures. In some cases, this did not appear to impact businesses' eligibility or award amounts. For example, staff did not complete all elements of the review checklist for three businesses. However, we found that these three businesses met all the eligibility criteria and ACCD had calculated the correct award amount for them.

In other cases, there was an impact to businesses' eligibility or award amounts that resulted from ACCD staff not following the review procedures. Four of the businesses we reviewed only reported revenue for a single location or division within their organization rather than for the entire business. ACCD used this incomplete information about the business's operations to assess whether the business demonstrated losses due to COVID-19 and to determine the award amount. The four businesses received about $387,000 from Round 2.0 of the ERG program.[33]

Since these businesses did not report complete revenue information for their entire business, it appears the award amounts determined by ACCD were not accurate. One business stated in a letter included in their application that other parts of the business had higher revenues in 2020 compared to 2019. If the higher revenue from those parts of the business offset the loss reported by the business on the application, the business would not have demonstrated losses due to COVID-19 and would not qualified for an award. For another business, ACCD staff indicated the business would have received

[33] One of these businesses was not in good standing with VDT and is one of the 49 businesses reported in Exhibit 2.

a *higher* award if ACCD had used the business's full revenue loss to calculate the award amount.

After a discussion with the audit team, ACCD managers said they were re-reviewing the application of the business that reported revenue for a division. The managers said the other three had been approved appropriately because the businesses had chosen to submit partial financial information. However, ACCD's review manual did not indicate eligibility could be assessed for a portion of a business and applicant guidance did not advise that portions of a business could qualify for ERG. Subsequent to the discussion with the audit team, ACCD provided SAO a list of businesses subject to post-award monitoring which shows that two of the four businesses referenced above had been added to the list because of the audit team's discussion with ACCD.

ACCD lacked procedures to validate other financial assistance

In Round 2.0, ACCD used the amount of other COVID-19 financial assistance reported by businesses, such as the Small Business Administration's (SBA) Paycheck Protection Program (PPP), as well as other state assistance programs, to reduce ERG award amounts.[34] This is consistent with the U.S. Treasury FAQ, issued in October 2020, which advised that states take into account PPP received when determining businesses' need for assistance.[35] ACCD validated the amount of assistance from the State prior to issuing the award but did not verify the federal assistance. We found some instances where the federal assistance reported by businesses was not accurate which overstated the businesses need and resulted in overpayment of ERG awards.

We compared the PPP data reported by all businesses that received an ERG award to SBA's PPP data and found six businesses appeared to have under reported how much assistance they received. In some cases, businesses falsely indicated they had not received any amount from PPP while in other cases businesses reported lower amounts than indicated by the PPP data. Since ACCD did not verify this information before issuing awards, these six businesses appeared to have a higher unmet need and received $33,624 more than they should have.[36]

Businesses were informed during the application process that if the grant was issued due to error, misrepresentation of facts, or fraud, the business

34 The Paycheck Protection Program is administered by the U.S. Small Business Administration and is structured as a loan which is forgiven if a business demonstrates that the funds were used according to program requirements.

35 U. S. Treasury [Frequently Asked Questions, Question 59.]

36 One business that received about $18,000 of a Round 2.0 ERG award is also one of the businesses reported in Exhibit 2 as not in good standing with VDT.

would be required to return the award to ACCD. ACCD may seek recoupment of any overpayments for the six businesses that reported inaccurate amounts of other COVID-19 assistance. Only one of the six businesses we identified was included in ACCD's post-award monitoring which also flagged this issue.

Many Round 1.0 Awards Appear Higher than Revenue Losses

ACCD's award amount calculation in Round 1.0 was not tied to the businesses' demonstrated loss due to COVID-19. Rather, ACCD determined award amounts as 10 percent of the business' 2019 annual revenue, up to $50,000.[37] This disconnect between the revenue loss reported by businesses in the application system and how ACCD calculated award amounts created a risk that awards could exceed the businesses demonstrated loss. This is an issue because U.S. Treasury Guidelines only allowed awards to small businesses to reimburse the costs of businesses interruptions.[38] **We determined that 401 businesses received ERG awards in Round 1.0 which exceeded the revenue declines reported by these businesses.** Overall, these 401 businesses received $4.4 million more than the loss they reported.[39]

To be eligible for an award in Round 1.0, businesses had to demonstrate a 75 or 50 percent reduction in revenue in one month between March and September 2020 compared to the same month in 2019.[40] As shown in Exhibit 3, because the award was a percentage of 2019 annual revenue a business that reported a revenue decline of $30,000 could receive an award of $50,000.

Exhibit 3: Example of a Business That Could Receive an Award in Round 1.0 that Exceeded the Reported Revenue Loss

Reduction in Revenue		*Award Amount*	
Revenue in March 2019	$40,000	Total 2019 Revenue	$500,000
Revenue in March 2020	$10,000	Award Calculation	10%
Reduction in Revenue	$30,000	Award Amount	$50,000

37 ACCD established the maximum award at $50,000 in Round 1.0 of the ERG program. Subsequently, ACCD determined to provide supplemental awards up to a maximum of $150,000 for businesses in the following sectors: lodging, retail, hospitality, arts, travel, recreation, sports, and event affiliated sectors with capacity constraints.

38 U.S. Treasury Coronavirus Relief Fund program guidance

39 Of the 401 businesses, 27 are businesses that did not meet one of the eligibility criteria as shown in Exhibit 2. These 27 businesses received about $681,000 of Round 1.0 ERG awards.

40 Act 115, the initial legislation that created the ERG program, required a 75 percent revenue decline for a business to be eligible for an award. Subsequently, Act 137 changed the requirement to a 50 percent decline in revenue.

The CFO evaluated the ERG program shortly after the program began and identified the disconnect between revenue loss and award amount as a risk, noting that if a business' loss due to COVID-19 business interruptions is lower than 10 percent of 2019 annual revenue, it raises a red flag for CRF eligibility. According to the CFO, the use of federal COVID-19 funds "appears to only be appropriate to cover the losses that a business has incurred/will incur due to COVID-19." To address this risk, in September 2020, the CFO required ACCD to ensure awards did not exceed the businesses' losses incurred due to COVID-19 business interruptions.[41] To date, ACCD has not provided evidence that steps have been taken to remediate this risk.

Data from ACCD's application system shows that 401 of 718 businesses that only received awards in Round 1.0 received an award amount that exceeded the businesses' reported revenue loss. **The median amount the award exceeded the loss was $8,165 and ranged from $4 above the loss to over $140,000 above the loss. In total, these 401 businesses received awards that were approximately $4.4 million above the reported revenue loss.**

The U. S. Treasury Office of the Inspector General record keeping requirements specify that there needs to be some documentation to demonstrate that the business was impacted by the public health emergency and was thus eligible for the CRF funds.[42] At this point, ACCD has not met this standard because the data in the application system does not demonstrate losses sufficient to support the award payments.

ACCD may be able to remediate this deficiency. Although businesses were only required to report the revenue loss for one month in ACCD's application system for Round 1.0, they also had to submit monthly profit and loss statements for all months through the date of application in 2020. In some cases, these records may show the business had additional revenue losses that collectively justify the award amount. We reviewed 2020 and 2019 monthly profit and loss statements for a random selection of 10 of the 401 businesses to determine if these records demonstrated additional losses that could justify the award amount. The monthly profit and loss statements for five of the ten businesses demonstrated that total revenue losses exceeded the grant award. However, the award amounts for the other five businesses was not supported even after considering revenue losses in other months. Specifically, these businesses collectively received about $86,000 in award payments that exceeded the revenue loss demonstrated by the businesses. These five businesses may have had additional revenue losses after they submitted their application which could justify the award amounts. However,

[41] "Response to Grant Questionnaire: Agency of Commerce and Community Development (ACCD) Grant Questionnaire Review" (9/11/2020)

[42] Department of the Treasury Office of Inspector General Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping (Revised), March 2, 2021, Question 75.

ACCD would need to request additional months of profit and loss statements to assess whether the businesses had additional losses.

We also reviewed the monthly profit and loss statements for the business whose award exceeded the reported revenue decline by the largest amount (about $141,000). We found that the business' 92 percent revenue decline reported for the one-month period satisfied the percentage revenue decline requirement, but the business had *higher* revenue in 2020 compared to 2019 when additional months in the profit and loss statements were considered.

We noted that ACCD did not reduce businesses' Round 1.0 awards by the amount of other COVID-19 financial assistance already received such as the SBA's PPP. Act 115 allowed ACCD to determine whether awards should be adjusted based on financial assistance from other sources. However, it's not clear if ACCD's decision is consistent with U.S. Treasury's FAQ's issued in May 2020. The FAQ's stated that programs to assist businesses with costs of business interruption should be tailored to assist those businesses in need of such assistance. If a business received PPP assistance greater than the losses the business reported in ACCD's application system, this could be an indication that the business was not in need of assistance from the ERG program and may increase the risk that businesses received ERG awards that were not justified. In October 2020, the FAQ's were revised and specified that PPP should be taken into account when assessing business need for assistance.

Our analysis of the 718 businesses did not take other COVID-19 financial assistance into consideration either. However, we believe that the other assistance should be included in further analysis of the 401 businesses' cumulative revenue losses as these businesses received $9.7 million of PPP which may address some or all of the revenue losses, if any, that may be documented in the monthly profit and loss statements submitted with the Round 1.0 applications.

ERG legislation for Round 1.0 specified that recipients accepting funds in good faith reliance on the State's eligibility determination process for the award will be held harmless. If ACCD reviews additional financial records for the remaining businesses and finds that awards exceed losses, it is not clear the agency will be able to seek repayment from the businesses since it is the agency's methodology that determined the amount of the award. **As a result, the State may have to repay any excess back to the federal government without recouping over payments from businesses.**

Objective 2: ACCD's Approach for Calculating Need Was Not Effective for Many of 57 Businesses SAO Reviewed Because Awards Increased Profitability Rather than Remedying Financial Harm Due to COVID-19

State legislation establishing Round 2.0 of the State's ERG program required businesses to meet certain eligibility criteria, including that businesses demonstrate need based on economic loss due to the COVID-19 public health emergency from March 1, 2020 to December 1, 2020.[43] For a non-statistical selection of 57 businesses, we calculated need for ERG assistance based on change in adjusted net operating income, a profitability measure, between March to September 2020 and the same period in 2019 and compared the results to ACCD's approach which used revenue loss.[44] The 57 businesses accounted for about $130.3 million of the need calculated by ACCD for Round 2.0 (38 percent of the need) and received ERG awards of $12.5 million (17 percent of awards) in Round 2.0.[45] Using adjusted net operating income to assess need, we found that 38 of the businesses were more profitable in 2020 than in 2019 after receiving a Round 2.0 ERG award from ACCD. In total, 16 businesses received $3.7 million of Round 2.0 ERG awards for which the profitability measure indicated there was no need because adjusted net operating income had increased in 2020 or other COVID-19 financial assistance received by the businesses offset decreases in profitability. Another 22 businesses received $4.8 million of Round 2.0 ERG awards which was about $3.0 million more than needed to offset profitability declines.

Using an adjusted net operating income method for the 57 businesses reviewed, we found $14.7 million in need. ACCD's approach identified almost nine times that amount of need ($130.3 million) for the same 57 businesses. Part of this difference is because some businesses were able to reduce expenses which offset revenue declines due to COVID-19. Our analysis shows that if ACCD had used changes in adjusted net operating income to calculate

43 Act 154 (2020) Sec. B. 1102

44 For the purposes of this audit, "adjusted net operating income" was calculated from financial records submitted by businesses as part of the application. Specifically, we used reported net operating income and added back any depreciation and amortization reported by the business. This was done because depreciation and amortization are "non-cash" expenses that reduce a business's reported income but do not represent money paid by the business in that period.

45 The businesses were from various industries and received different ERG award amounts. See Appendix III for more details about the demographics of the 57 businesses.

need, it could have targeted funds to businesses whose profitability declines were not adequately offset by financial assistance received from other sources.

The Legislature's Joint Fiscal Office (JFO) and economist advised the legislative Joint Fiscal Committee (JFC) that business profitability would be a more accurate method for assessing need.[46] A committee member described different survival techniques that businesses might use to reduce expenses and an ACCD senior official stated that because of this, ACCD believed that the only equitable way to treat every business the same was to use revenue loss to determine need. However, ACCD's decision to use revenue meant that businesses which were able to offset revenue losses by reducing expenses would be treated the same as businesses which faced a greater risk of closing because they were unable to reduce expenses. As shown in our analysis, ACCD gave awards to some businesses that did not have a need based on profitability while other businesses still had an unmet need.

Using Change in Profitability to Determine Need, Many of the 57 Businesses SAO Reviewed Would Receive No Award or a Lower Amount and 19 Have Unmet Need

In Round 2.0, ACCD determined businesses' unmet need by comparing their revenue between March and September in 2019 to the same period in 2020. ACCD considered any decline in revenue not covered by other financial assistance (such as a PPP loan or previous ERG awards) as the business's unmet need. ACCD applied a factor of 41.19 percent to a business's unmet need to apportion available funding across all businesses, except the accommodation and food services sector which received 100 percent. Regardless of the industry, awards were capped at $300,000.

Many other states that administered COVID-19 business assistance programs used a similar approach, while Maine and South Dakota calculated need based on declines in business income. Another Vermont assistance program, the Healthcare Provider Stabilization Grant Program, also based awards on lost revenue resulting from COVID-19. However, payments to healthcare providers in this program were reduced to the extent the providers had decreased gross staff wages.

During Joint Fiscal Committee meetings in November 2020, the Legislative economist and JFO staff advised that a business' profitability would be a more

[46] Joint Fiscal Office Memorandum to the Joint Fiscal Committee on 11/8/2020 with the subject "Information Regarding Economic Recovery Grants" and Tom Kavet Memorandum to the Chief Fiscal Officer and Legislative Joint Fiscal Office on 11/9/2020 with the subject "Economic Priorities: Remaining CARES Act Allocation Issues."

accurate way of assessing need and would allow the ERG program to better target awards. A committee member expressed concern that businesses could use different survival techniques so that those that were able to cut expenses wouldn't receive state support, when those who did not cut expenses could get an award. An ACCD senior official stated that because of this, revenue loss was a more equitable measure. It allowed them to treat every business the same. However, ACCD's decision to use revenue to assess need resulted in ERG awards to businesses with increased profitability from 2019 to 2020 and businesses that had received other COVID-19 financial assistance that offset their profitability declines. This means the ERG awards increased businesses profitability for some businesses rather than just addressing financial harm from the COVID-19 emergency.

We reviewed a nonstatistical selection of 57 businesses that received $12.5 million of ERG awards from ACCD in Round 2.0 (17 percent of total awards) and found these businesses' total need was $14.7 million when need was calculated using changes in adjusted net operating income from 2019 to 2020 instead of revenue loss. Under ACCD's revenue loss approach, the 57 businesses' need was almost nine times as much at just over $130 million (38 percent of total unmet need in Round 2.0). This has implications that should be considered by the Legislature and the Administration when making decisions about future financial assistance programs for businesses.

The two methods result in different amounts of need because the revenue-based method does not consider that reduction in expenses could offset declines in revenue. For example, under ACCD's revenue-based method, after considering other financial assistance received, one of the businesses we reviewed had an unmet need of about $7 million even though the business' costs for items such as materials decreased by about $6.9 million in the same period. When calculated using change in adjusted net operating income, after considering other financial assistance received, the business' need was less than $200,000.

For the selected businesses, ACCD's use of revenue to calculate need resulted in Round 2.0 ERG awards to 5 businesses whose profitability did not decline from 2019 to 2020 and 11 businesses that received other COVID-19 financial assistance which adequately offset declines in profitability. These 16 businesses received $3.7 million of ERG awards. Another 22 businesses, that still had profitability declines after considering other COVID-19 financial assistance, received $4.8 million of Round 2.0 ERG awards which exceeded the amount needed to offset decreases in profitability by $3.0 million. Together, these 38 businesses received $6.7 million of Round 2.0 ERG awards that was not necessary when the calculation of need was based on changes in adjusted net operating income. This means that ACCD could have used less CRF funds to remedy financial harm due to COVID-19 for the 57 businesses, if adjusted net operating income was used to measure economic loss.

One business we selected to review decided to return the full amount of their ERG award. In explaining this decision to ACCD, the business wrote that while the award was based on a decline in revenue, "we did not experience a net loss for our year."

The business' decision to return the award does not impact our testing or results related to ACCD's methodology.

Exhibit 4 shows financial data for seven businesses who's total COVID-19 financial assistance, including Round 2.0 ERG awards, exceeded the businesses' decreased adjusted net operating income.

Exhibit 4: Seven Examples of Businesses in our Sample for which Total COVID-19 Assistance, Including Round 2.0 ERG, Exceeds the Decrease in Adjusted Net Operating Income

Example	ERG Award Round 2.0	Decrease in Adjusted Net Operating Income 2019 to 2020	COVID-19 Assistance[a]	Assistance Exceeds Need
Business #1	Less than $50k	$16,450	$19,009	$2,559
Business #2	$50k - $99k	$279,781	$314,742	$34,926
Business #3	$100k - $149k	$115,200	$232,141	$116,941
Business #4	$150k - $199k	$57,432	$203,107	$145,675
Business #5	$200k - $249k	$175,803	$431,413	$255,610
Business #6	$250k - $299k	$412,881	$619,900	$207,019
Business #7	$300k	$480,125	$2,891,500	$2,411,375

a For purposes of this exhibit, COVID-19 assistance includes all financial assistance a business received, including ERG awards.

Considering other COVID-19 assistance and Round 2.0 ERG awards, 38 businesses (67 percent) had higher adjusted net operating income between March and September 2020 than compared to the same period in 2019. This is because 16 businesses did not have a decline in profitability, or their declines were offset by other COVID-19 financial assistance, and they received ERG Round 2.0 awards. Further, 22 businesses received total COVID-19 assistance, including Round 2.0 ERG awards, that exceeded their decrease in adjusted net operating income. Overall, the adjusted net operating income for these businesses was $15.7 million higher when compared to the same period in the previous year. As a result, we concluded that for most of the 57 businesses selected, ACCD's method of determining need did not effectively target assistance to address financial harm. **According to a memo from JFO, ACCD's use of revenue to determine need "does not attempt to measure economic despair for these businesses. Rather, it is simply a measure of revenue loss from 2019 to 2020. It does not indicate whether or how many of these businesses would fail without state financial assistance."**[47]

This is significant because ACCD allowed a broad use of ERG awards and had no plans to review how businesses used the awards. ACCD's program guidance stated awards could be used for "necessary expenditures" and costs related to COVID-19, but ACCD did not define or provide examples of what expenditures were necessary. Business which had already cut expenses or received other assistance and ended up with more adjusted net operating income than previous year may have decided to consider the award as income and not use it on employee salaries, purchasing services or goods, or other operating expenses.

Because this analysis was done with a non-statistical sample, we cannot extrapolate the results to the entire population. However, the analysis does support JFO's concerns that ACCD's focus on revenue loss "make it difficult to strategically target state dollars where they are needed most within the business community." Of the 57 businesses SAO reviewed, 19 did not receive sufficient COVID-19 financial assistance to offset decreased adjusted net operating income. Examples of these businesses are shown in Exhibit 5.

[47] Joint Fiscal Office Memorandum to the Joint Fiscal Committee on 11/8/2020 with the subject "Information Regarding Economic Recovery Grants"

Exhibit 5: Seven Examples of Businesses in our Sample with Remaining Need When Decrease in Adjusted Net Operating Income Was Compared to Total COVID-19 Assistance, Including Round 2.0 ERG

Example	ERG Award Round 2.0	Decrease in Adjusted Net Operating Income 2019 to 2020	COVID-19 Assistance[a]	Remaining Need
Business #1	Less than $50k	$28,217	$18,827	$9,390
Business #2	$50k - $99k	$237,212	$193,293	$43,919
Business #3	$100k - $149k	$283,500	$176,416	$107,084
Business #4	$150k - $199k	$463,934	$437,350	$26,584
Business #5	$200k - $249k	$660,589	$586,621	$73,968
Business #6	$250k - $299k	$784,207	$517,700	$266,507
Business #7	$300k	$1,486,770	$797,105	$689,665

a For purposes of this exhibit, COVID-19 assistance is all financial assistance received by a business including ERG awards.

As previously noted, in Round 2.0 ACCD applied a 41.19 percent factor to businesses' unmet need to determine award amounts. If this factor had not been needed to apportion available funding, we estimate that 6 of the 19 businesses would have received awards that met their total need, calculated on an adjusted net operating income basis.[48] Further, the six businesses would have received about $330,000 more in ERG Round 2.0 awards than they received under ACCD's approach.

The Legislature established an additional economic recovery program for businesses in April 2021 to be administered by ACCD. At the Legislature's direction, businesses had to demonstrate a tax loss due to the COVID-19 public health emergency in 2020 rather than revenue loss.[49] ACCD's guidance for the program also indicated that to qualify for awards businesses would need to show a net loss according to profit and loss statements from March 2020 to April 2021 after compensating for state and federal assistance received. SAO did not assess the Economic Recovery Bridge Grants program as part of this audit.

Conclusions

In the seven months between June 2020 and December 2020, ACCD awarded approximately $117 million to 2,278 Vermont businesses through the ERG program. However, ACCD did not ensure only eligible businesses received

48 The estimate assumes each business would receive 100 percent of unmet need up to the award maximum of $300,000. This is different than ACCD's award calculation for Round 2.0 which provided 100 percent of unmet need up to $300,000 only for accommodations and food services businesses and all others received 41.19 percent of need up to $300,000.

49 Act 9 established the Economic Recovery Bridge Grants program on 4/17/2021.

awards, and did not ensure that award amounts were appropriate. This is because ACCD did not develop adequate procedures to verify businesses met all eligibility criteria and some procedures were not followed. Additionally, ACCD potentially violated federal rules by issuing awards that exceeded businesses' reported losses.

Lastly, ACCD's decision to use revenue to assess financial harm in Round 2.0 did not effectively evaluate the harm for some businesses. Based on our review of a non-statistical selection of 57 businesses, 16 were more profitable in 2020 compared to 2019 or had received other assistance that fully covered profitability declines. These 16 businesses received $3.7 from the ERG program. This supports JFO's concerns that ACCD's decision to use revenue loss "make it difficult to strategically target state dollars where they are needed most within the business community.

Recommendations

We make the recommendations in Table 1 to the Agency of Commerce and Community Development.

Table 1: Recommendations and Related Issues

Recommendation	Report Pages	Issue
1. If additional business financial assistance programs are administered, develop and document a) procedures that include verification for all eligibility criteria and b) guidelines for agency staff that contain explicit direction on how to assess all eligibility criteria.	8-19	ACCD relied on businesses' self-certifications that they met some eligibility criteria, some of ACCD's application review procedures were unclear and staff did not always follow the procedures. As a result, ineligible businesses received awards.
2. Coordinate with the Department of Taxes, Secretary of State, and the COVID-19 Financial Office to determine the appropriate action to take for the 194 businesses that did not meet all eligibility criteria at the time they applied to the ERG program. Actions should be documented and could include, but are not limited to, ensuring businesses resolve the issue that made them ineligible or recouping the ERG award.	9-14	Businesses self-certified on the ERG application that they met several eligibility criteria and ACCD decided not to verify these self-certifications. As a result, ineligible businesses received awards.
3. Report businesses that do not have legal authority to conduct business in Vermont under their business name to the Secretary of State.	11-12	SAO identified multiple businesses that did not appear to have the authority to conduct business in Vermont under their business name.

Recommendation	Report Pages	Issue
4. Coordinate with the Department of Labor and the COVID-19 Financial Office to determine if the three businesses on the State's debarment list for labor law violations were eligible for an ERG award at the time of their application. Take appropriate action based on that determination and document the results.	12-13	Businesses self-certified on the ERG application that they complied with local, state, and federal labor laws. Three businesses that received awards were on the State's debarment list for labor law violations. As a result, these businesses may not have been eligible for awards.
5. Coordinate with the Department of Taxes and the COVID-19 Financial Office to determine if the two businesses identified in this report are domiciled in Vermont. Take appropriate action based on that determination and document the results.	14-15	Only businesses that were domiciled in Vermont were eligible for ERG awards. Two businesses that received awards did not appear to meet this requirement based on available documentation. As a result, these businesses may not have been eligible for awards.
6. Coordinate with the COVID-19 Financial Office to determine if the two businesses identified in this report adequately demonstrated a loss due to the impact of COVID-19. Take appropriate action based on that determination and document the results.	15-17	To qualify for an ERG award, businesses had to demonstrate that their revenue loss was the result of the COVID-19 pandemic. Two businesses that received awards did not appear to meet this requirement based on available documentation. As a result, these businesses may not have been eligible for awards.
7. Coordinate with the COVID-19 Financial Office to determine if the four businesses identified in this report received an award based on inaccurate financial information. Document the results, and if the businesses were not eligible or the award amounts were incorrect, take appropriate action.	17-18	To qualify for an ERG award, businesses had to provide financial documentation demonstrating a revenue loss. Four businesses that received awards did not provide financial information for the entire business. As a result, these businesses may not have been eligible for awards or may have received an incorrect award amount.
8. Recoup award overpayments for the six businesses that understated or did not disclose their PPP loans in ACCD's application system.	18-19	In Round 2.0, ACCD considered other COVID-19 assistance when calculating award amounts. However, ACCD did not verify the amount of assistance businesses reported receiving. Six businesses did not accurately report the amount of other assistance they had received, which resulted in these businesses receiving award amounts that were higher than they should have received.

Recommendation	Report Pages	Issue
9. For the 401 businesses in Round 1.0 with award amounts that exceed the revenue loss data reported in the application system, review the monthly profit and loss statements submitted with the application to determine whether there is sufficient documentary evidence to support the award amount. To the extent the awards exceed revenue losses reported in the application system and documented in the profit and loss statements, repay the excess to the federal government and recoup the excess award amounts from businesses, if possible.	19-21	Federal rules allowed awards to reimburse businesses for the cost of business disruption caused by COVID-19. In Round 1.0, ACCD did not calculate award amounts based on the revenue loss reported by the businesses. As a result, it appears that numerous businesses received awards that exceeded the amount of loss reported by businesses in ACCD's application system. ERG legislation specified that recipients accepting funds in good faith reliance on the State's eligibility determination process for the award will be held harmless. Therefore, it's not clear the agency will be able to seek repayment from the businesses since it is the agency's methodology that determined the amount of the award. As a result, the State may have to repay any excess back to the federal government without recouping over payments from businesses.

We make the recommendation in Table 2 to the Legislature and the Agency of Commerce and Community Development.

Table 2: Recommendations and Related Issues

1. If future rounds of ERG program or a similar business assistance programs are administered, consider other methods of calculating financial harm to better target awards and adjust program guidelines accordingly.	22-27	In Round 2.0, ACCD decided to use revenue to determine the amount of financial harm suffered by the businesses because of COVID-19. Several of 57 businesses reviewed by SAO that received Round 2.0 awards were more profitable in 2020 as they had cut expenses and received other COVID-19 financial assistance. As a result, revenue may not be the most appropriate measure of financial harm.

We make the recommendation in Table 3 to the Legislature.

Table 3: Recommendations and Related Issues

1. Require ACCD to provide periodic reports to the Legislature on 1) the agency's post-award monitoring program, including any action taken, or pending action, and 2) action taken in response to audit recommendations.	9, 28-30	ACCD has indicated that post-award follow-up is on-going and the agency's draft compliance monitoring procedures specified that 231 businesses were selected for follow-up. However, the agency has provided limited detail of outcomes from this follow-up to SAO. Additionally, SAO has recommended follow-up for over 570 businesses.

Management's Comments and Our Evaluation

On September 15, 2021, the Secretary of the Agency of Commerce and Community Development provided written comments on a draft of this report. The Secretary neither agreed nor disagreed with our findings and recommendations. These comments are reprinted in Appendix IV. Our evaluation of these comments is in Appendix V.

Appendix I
Scope and Methodology

To gain an understanding of the ERG program we interviewed ACCD staff responsible for administering the program, as well as ACCD staff responsible for reviewing and approving ERG applications. We also reviewed federal and state regulations and guidance related to the CRF, state legislation related to the ERG program, and ERG program guidelines published by ACCD.

For objective 1, we considered all rounds of the ERG program administered by ACCD between June 2020 and January 2021.

To determine if ACCD ensured only eligible businesses received ERG awards we reviewed ACCD's procedures for reviewing ERG applications and obtained access to the system ACCD used to process ERG applications. We then compared the complete list of businesses which had received an ERG award with available data sources relevant to various eligibility criteria.

To verify businesses were in good standing with VDT when they applied, we interviewed VDT staff and obtained a list of all businesses with taxes due in March 2021 that also received an ERG award. We then selected the 80 businesses that had a tax debt over $100 and were not in good tax standing in March 2021 and requested that VDT assess whether the businesses were in good standing at the time each submitted their ERG application. If a business was not in good tax standing at the time of its ERG application but corrected its standing by March 2021 or did not have a debt over $100 in VDT's accounts receivable in March 2021, then it would not have been detected by this analysis.

To verify good standing with the Secretary of State when they applied, we discussed registration and standing with Secretary of State staff and downloaded data from the Secretary of State's business registration database and compared it to the list of businesses that received an ERG award. We used data as of 2/23/2021 for the initial analysis and investigated further those businesses for which we identified no registration or only an "inactive" registration. For businesses that appeared to be sole proprietors, we assessed whether the business name required registration with the Secretary of State. We then used the Secretary of State's website to research businesses and business names not listed in the registration database that had received an ERG award. Any businesses that were not in good standing at the time of their ERG award, but corrected their registration before we obtained our data, would therefore not have been detected by this analysis.

To verify businesses were not in Chapter 7 bankruptcy we obtained a list of Chapter 7 bankruptcy filings in Vermont since January 2018 and compared it to the list of businesses that received an ERG award. Because we used data relating only to Chapter 7 bankruptcy filings in Vermont, this analysis would not have detected businesses that were bankrupt under other statutory provisions or filed in other states.

To verify businesses complied with labor laws, we compared the list of businesses which had received an ERG award to the list of businesses currently on the State's debarment list for labor law violations.

To verify ACCD staff had followed the process for reviewing and verifying applicant data and that applications were supported by appropriate documentation we selected a total sample of 33 applications from both rounds of the ERG program. The 33 applications included both a random and judgmental sample, with:

- Four applications randomly selected from each of the following five categories:
    - businesses that received awards based on a 75% loss
    - businesses that received awards based on a 50% loss
    - businesses that received awards from Round 2.0,
    - businesses that had been labeled "high risk" by ACCD's reviewers
- 13 applications judgmentally selected by the audit team based on review of applications during the planning phase of the audit or other fieldwork testing.

To verify businesses had accurately reported other assistance, we compared the amount of assistance reported by the business on their ERG application with the amounts reported by the relevant entity. This included data from the SBA for PPP and Economic Industry Disaster Loan (EIDL) awards.

To determine whether any ERG awards exceeded a business' demonstrated loss, we identified businesses that did not receive an award in Round 2.0 and whose Round 1.0 award exceeded the one-month revenue loss businesses reported in ACCD's application system. We then selected 11 businesses and reviewed the profit and loss statements that covered additional months which were supplied by these businesses as part of the ERG application. We assessed whether the 11 businesses reported additional losses in the profit and loss statements that equaled or exceeded their ERG award amount. Ten of these businesses were randomly selected from businesses whose award exceeded their reported loss by more than the median amount. The remaining business was judgmentally selected by the audit team due to the large difference between the award amount and the reported loss.

For objective 2, we focused on the Expanded ERG program administered by ACCD between October 2020 and January 2021.

Appendix I
Scope and Methodology

We researched small business assistance programs in 21 other states that had not received more than $1.25 billion from the CRF. This included reviewing program websites and available guidance documents, as well as contacting staff that administered those programs.

To determine if ACCD's use of revenue loss to assess financial harm effectively measured businesses' need we first selected a sample of 57 businesses that had received an award in Round 2.0. The sample was based on the award amount and included all 27 business that received the maximum award of $300,000. The remaining 30 businesses were selected by separating businesses into six tiers based on the award amount (e.g., $50,000 - $99,999) and randomly selecting five business from each tier. See Appendix III for demographic details about this sample of businesses.

After selecting the sample of businesses, we compared the financial harm for each business based on ACCD's revenue loss method and the change in adjusted net operating income.

To determine financial harm based on ACCD's revenue loss method, we copied the financial information collected by ACCD as part of the ERG application. This included the businesses' 2019 and 2020 revenue between March and September, and the total amount of COVID-19 aid the business reported receiving.

To determine financial harm based on the change in adjusted net operating income, we reviewed financial records provided by the businesses as part of the ERG application. We calculated adjusted net operating income for 2019 and 2020 by adding the businesses net operating income between March and September for each year to any depreciation and amortization reported by the business in those months. We then added the total amount of COVID-19 aid the business reported receiving to the change in adjusted net operating income to determine the financial harm.

We then compared the financial harm for each business calculated under ACCD's revenue loss method with the financial harm calculated based on adjusted net operating income.

We conducted this performance audit in accordance with generally accepted government auditing standards, which require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II
Abbreviations

ACCD	Agency of Commerce and Community Development
CFO	COVID-19 Financial Office
COVID-19	Coronavirus Disease 2019
CRF	Coronavirus Relief Fund
DFM	Department of Finance and Management
EIDL	Economic Injury Disaster Loan
ERG	Emergency Economic Recovery Grant
GAO	Government Accountability Office
JFC	Joint Fiscal Office
JFO	Joint Fiscal Office
PPP	Paycheck Protection Program
SAO	State Auditor's Office
SBA	United States Small Business Administration
VDT	Vermont Department of Taxes

Appendix III
Demographic Information about Objective 2 Selection

We selected 57 businesses that received $12.5 million of ERG awards in Round 2.0. The selection included all 27 businesses that received the maximum award of $300,000 and five businesses randomly selected from each of the following award tiers:

- Less than $50,000
- $50,000 - $99,999
- $100,000 - $149,999
- $150,000 - $199,999
- $200,000 - $249,999
- $250,000 - $299,999

The maximum award was $300,000 and the minimum was less than $5,000.

The selection included businesses from 10 different Vermont counties, with most businesses (22/57) reporting an address in Chittenden County. Rutland (9/57) and Windham (7/57) were the second and third most represented counties.

There were 16 different NAICS codes represented in the sample. The most represented industries were construction (8/57), Accommodation and Food Services (7/57), Wholesale Trade (6/57), and Manufacturing (6/57).

Overall, the 57 businesses in the sample reported total revenue in 2019 of $807.3 million. For individual businesses, the reported revenue in 2019 ranged from over $120 million to under $35,000. The median reported revenue in 2019 was approximately $3.4 million.

Of the 57 businesses, 39 (68 percent) reported receiving a PPP loan. The total amount of PPP loans reported by these businesses was $18.5 million and ranged from nearly $5 million to just below $20,000.

Nine of the businesses in the sample were non-profits.

Appendix IV
Comments from Management

The following is a reprint of management's response to a draft of this report.

VERMONT

Agency of Commerce and Community Development
National Life Building – Davis Building, 6th Floor
One National Life Drive
Montpelier, VT 05620-0501
accd.vermont.gov

[phone] 802-828-3211
[fax] 802-828-3383

September 15, 2021

See Comment 1 on page 38

See Comment 2 on page 38

The Economic Recovery Program administered by the Agency of Commerce and Community Development and the Department of Taxes during 2020 brought over $330 million to nearly 5,000 businesses in the state of Vermont. We stand by the work that was done to keep Vermont's economy afloat during a once in a century crisis. ACCD appreciates the SAO's review and the eight months of work to audit the program. The Auditor's draft report has been reviewed and the issues raised are being looked into on a case-by-case basis to determine if an appropriate cure is needed.

See Comment 3 on page 39

As these were Federal CARES act dollars, Federal guidelines and guidance informed every decision that was made, including the use of revenue to demonstrate business loss. The Agency of Administration also reviewed, vetted, and approved the process by which this relief funding was delivered to businesses. This program was administered amidst a State of Emergency and had to be swift in its delivery of funds to businesses to prevent and avoid massive closures.

At the height of the pandemic, when there was great uncertainty around business continuity and cross state travel, business operations across sectors were severely impacted. This program was intended to help those businesses survive and allow them to make it to where we are today. The program did what it set out to do. It served small business (86% had revenues less than $1.5 million), it supported the hardest hit sectors (25% of recipients were in hospitality, receiving 42% of funds), and included specific support for women and minority-owned business (34% of all awards).

See Comment 4 on page 39

Relief was delivered swiftly, accurately and in accordance with federal statute and legislative intent as set forth by the US Treasury and the Vermont State legislature. This program is undoubtedly part of the reason the state is in the position to rebound from this crisis rather than start over completely.

Sincerely,

Lindsay H Kurrle

Lindsay H. Kurrle
Secretary
Agency of Commerce and Community Development

Appendix V:
SAO Evaluation of Management's Comments

The Agency's comments are not responsive to our findings, conclusions, and recommendations. The following table contains our evaluation of management's comments.

Comment #	Management's Comments	SAO Evaluation
1	*The Economic Recovery Program administered by the Agency of Commerce and Community Development and the Department of Taxes during 2020 brought over $330 million to nearly 5,000 businesses in the state of Vermont. We stand by the work that was done to keep Vermont's economy afloat during a once in a century crisis.*	Our audit does not question whether a business assistance program was necessary to respond to the effects of the COVID-19 pandemic. Rather, we conducted the audit because of the risks to program integrity associated with distributing such a substantial amount of money in a relatively short period and concerns expressed during legislative hearings about the method ACCD used to determine award amounts. ACCD understandably stands by its use of CRF funds to create a business assistance program. Many states did the same, as this was an allowable category of CRF spending per U.S. Treasury guidance. However, ACCD's response does not address whether it will remedy the actions that led ineligible businesses to receive grants, provided grant amounts that appear to exceed some businesses' 2020 revenue losses, in contradiction to federal law, and failed to respond to direction from the COVID-19 Financial Office to safeguard Vermont taxpayers. We hope that our recommendations help inform ACCD's future efforts.
2	*Federal guidelines and guidance informed every decision that was made, including the use of revenue to demonstrate business loss*	We did not conclude that the use of revenue loss to calculate a business's need was contrary to federal guidelines. Rather, we found that ACCD's use of revenue loss was not effective because many of the businesses we reviewed were more profitable in 2020 than in 2019 after receiving a Round 2.0 award from ACCD. In total, these businesses received about $6.7 million more than needed to offset declines in profitability. Had

		an alternate methodology been used, those dollars would have been available to provide additional support to applicants who experienced greater economic harm due to COVID-19.
3	*The Agency of Administration also reviewed, vetted, and approved the process*	This is misleading. For Round 1.0 of ERG, this approval included a requirement that ACCD ensure ERG awards not exceed the businesses' losses due to COVID-19 business interruption. ACCD has not provided evidence that they complied with this requirement.
4	*At the height of the pandemic, when there was great uncertainty around business continuity and cross state travel, business operations across sectors were severely impacted. This program was intended to help those businesses survive and allow them to make it to where we are today. The program did what it set out to do. It served small business (86% had revenues less than $1.5 million), it supported the hardest hit sectors (25% of recipients were in hospitality, receiving 42% of funds), and included specific support for women and minority-owned business (34% of all awards).* *Relief was delivered swiftly, accurately and in accordance with federal statute and legislative intent as set forth by the US Treasury and the Vermont State legislature. This program is undoubtedly part of the reason the state is in the position to rebound from this crisis rather than start over completely.*	We recognize the importance of providing timely assistance to businesses during the pandemic and acknowledge that in an emergency it may be appropriate to accept some level of risk. However, we identified several areas where the absence of controls led to awards to ineligible businesses and awards that exceeded revenue losses reported by businesses in ACCD's application system in Round 1.0. The results noted by ACCD were reported to the Legislature in March 2021 and are for the whole ERG program, including awards by VDT. According to the report, while businesses with revenues less than $1.5 million represented 86 percent of the organizations that received awards, they received 62 percent of the total funds awarded. Similarly, while 34 percent of awards were made to women and minority-owned businesses, these businesses received 18 percent of the total funds awarded.