

## SBA RESTAURANT GRANT PROGRAM

Congress has passed several rounds of financial assistance and relief for small businesses in response to the COVID-19 pandemic, including most recently the *American Rescue Plan*. In addition to providing more funding for general small business relief, the *American Rescue Plan* also includes a new grant program for restaurants and other food and drinking establishments impacted by the pandemic.

### \*\*\* WHAT IS NEW IN THE AMERICAN RESCUE PLAN \*\*\*

The *American Rescue Plan* provides \$29 billion nationwide for a new Small Business Administration (SBA) grant program specifically for restaurants and other food and drinking establishments impacted by the pandemic.

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### Eligible Grant Recipients

- Restaurants;
- Food stands, trucks, or carts;
- Caterers;
- Bars or lounges;
- Saloons, inns, or taverns;
- Brewpubs, tasting rooms, taprooms, or other licensed facilities or premises of a beverage alcohol producer where the public may taste, sample, or purchase products; and
- Similar businesses where patrons assemble for the primary purpose of being served food or drink.

This includes entities located in airport terminals and Tribally-owned concerns.

The following entities are **not** eligible:

- State or local government-operated businesses;
- Entities that own or operate (together with any affiliated business) more than 20 locations as of March 13, 2020, regardless of whether those locations do business under the same or multiple names;
- Publicly-traded companies; or
- Entities that have received a Shuttered Venue Operators (SVO) grant, or have a pending application for an SVO grant.

### Grant Amount

- The grant is equal to the business's pandemic-related revenue loss: 2019 gross receipts minus 2020 gross receipts. Note: businesses are required to reduce their pandemic-related revenue loss by any amounts received under the Paycheck Protection Program (PPP).
  - If the eligible entity was not in operation for the entirety of 2019, the difference between:
    - The product obtained by multiplying average monthly gross receipts in 2019 by 12; and
    - The product obtained by multiplying average monthly gross receipts in 2020 by 12; *or*

- An amount based on a formula determined by the SBA at a later date.
- If the eligible entity opened after January 1, 2020, the grant amount will be based on costs incurred minus gross receipts received, with a specific formula to be determined by the SBA.
- The maximum grant size is \$10 million per entity, limited to \$5 million per physical location.

### **Distribution of Grants**

- \$5 billion of the \$28.6 billion total is earmarked for the smallest businesses. Defined as those with 2019 gross receipts of \$500,000 or less.
- The remaining \$23.6 billion is available for SBA to award grants in the order in which applications are received, but in an equitable manner based on applicants' annual gross receipts.
- During the program's first 21 days of operation, SBA will give priority to applications from businesses owned and operated by women, veterans, and socially and economically disadvantaged individuals (as defined in [15 U.S.C. 637\(a\)\(4\)\(A\)](#)).

### **Use of Funds**

Grant funding can be used for a wide variety of expenses, including:

- Payroll costs;
- Payment of principal or interest on any mortgage obligation (not including prepayment of principal);
- Rent, including rent under a lease agreement (but not including prepayment of rent);
- Utilities;
- Maintenance expenses, including construction to accommodate outdoor seating and walls, floors, deck surfaces, furniture, fixtures, and equipment;
- Supplies, including protective equipment and cleaning materials;
- Food and beverage expenses within the scope of normal business practice;
- Covered supplier costs;
- Operational expenses;
- Paid sick leave; and
- Any other expenses the SBA determines to be essential to maintaining the eligible entity.

### **Applicant Certification**

Applicants must certify that the uncertainty of current economic conditions makes the grant request necessary to support ongoing operations, and that they have not applied for an SVO grant.

### **Tax Treatment**

- The ARP exempts SBA restaurant grants from gross income for tax purposes, and provides that such exclusion will not result in a denial of deduction, reduction of tax attributes, or denial of increase in basis.
- For partnerships and S corporations, the grant amount is treated as tax-exempt income for purposes of sections 705 and 1366 of the Internal Revenue Code, and the bill directs the Secretary of Treasury to prescribe rules for determining a partner's distributive share of amounts received through the restaurant grant.