

SBA Releases Program Details of the Restaurant Revitalization Fund

April 22, 2021



The below contains key updates to the Anchin Alert on the Restaurant Revitalization Grant program that was sent on [March 15, 2021](#).

On March 11, 2021, President Biden signed into law the \$1.9 trillion coronavirus relief bill entitled American Rescue Plan Act of 2021 (“ARP”), which includes a \$28.6 billion grant program under Section 5003, *Support for Restaurants*. The focus of this Alert is on the key clauses of the Restaurant Revitalization Fund (the “Fund”) pursuant to the ARP. Recent updates by the Small Business Administration (“SBA”) are captured below, and we expect the SBA to issue additional formal guidance in the next few weeks. The newly released rules may be significant to you and include updates on grant eligibility; calculation, amount, timing and use of grant funds; as well as information on how to apply.

Entities that are Eligible for the Grant

An eligible entity includes a place of business in which the public or patrons assemble for the primary purpose of being served food or drinks. Eligible businesses include the following:

- Restaurants
- Food Stands, Trucks or Carts
- Bars, Taverns, Lounges, or Saloons
- Caterers
- Snack and nonalcoholic beverage bars
- Licensed facilities or premises of a beverage alcohol producers where the public may taste, sample, or purchase products
- Bakeries, Brewpubs, Tasting Rooms, Taprooms, Breweries, Wineries, Distilleries & Inns (in order to be eligible, these businesses must prove that on-site sales to the public comprised at least 33% of 2019 gross receipts)
- Any of the above that is located in an airport terminal or that is Tribally-owned

Entities that are Not Eligible for the Grant

An entity described above is not eligible for this grant if it:

- Is a state or local government-operated business
- As of March 13, 2020, owns or operates (together with any affiliated business) **more than 20 locations regardless of name**
- Has a pending application for, or has received, a grant under Section 324 of the Economic Aid to Hard-Hit Businesses, Nonprofits and Venues Act (“Shuttered Venues Grant Program”)
- Is a publicly-traded company
- Is a non-profit organization

Calculating the Grant

An eligible entity calculates its “Pandemic-Related Revenue Loss” (i.e., Restaurant Revitalization Grant) by subtracting its 2020 gross receipts from its 2019 gross receipts.

If the entity was not in operation for all of 2019, the entity has the option to take the difference between the 2019 annualized monthly gross receipts and its 2020 gross receipts or to use the method below for openings that occurred in 2020 and later.

If the entity opened between January 1, 2020 and March 10, 2021, or has not yet

opened for sales as of March 11, 2021, but has incurred expenses, the entity would subtract 2020 gross receipts from the total amount spent on qualified expenses incurred from February 15, 2020 through March 11, 2021.

All applicants will then subtract the aggregate original disbursed amounts of any PPP loans received, regardless of when they were received. Any PPP loans repaid on or before May 18, 2020 in accordance with PPP safe harbor rules may be disregarded.

The minimum grant request is \$1,000.

Maximum Grant Amount

The aggregate amount of grants made to an eligible entity and any affiliated businesses of the eligible entity shall not exceed \$10,000,000 and shall be limited to \$5,000,000 per physical location of the eligible entity.

Timing of Grants

The SBA will prioritize awarding funds to small businesses that are at least 51% owned and controlled by individuals who are women, veterans, and/or socially and economically-disadvantaged individuals. This criteria will be self-certified on your application.

The ARP provides that \$5 billion in grants shall be set aside for entities with 2019 gross receipts of not more than \$500,000. An additional \$4 billion is set aside for applicants with 2019 gross receipts from \$500,001 to \$1.5 million. An additional \$500 million is set aside for applicants with 2019 gross receipts of not more than \$50,000. This leaves \$19.1 billion available for those with 2019 revenues above \$1.5 million and those that were not in operation until 2020.

Over the next two weeks and before launching the application portal, the SBA will pilot the Fund application portal for seven days. During the initial 21-day period after the application portal launches to the public, the SBA will accept applications from all eligible entities, but will distribute funds only to those that self-certified to the prioritized criteria above. From Day 22 forward, the SBA will distribute funds in the order in which the applications have been approved by the SBA.

Use of Grant Funds

The Covered Period for the grant is from February 15, 2020 through March 11, 2023 or, if sooner, the date the business permanently closes. The ARP permits eligible entities to use the grant during the Covered Period (including retroactive application) for the following expenses incurred as a direct result of or during the COVID-19 pandemic:

1. Payroll costs
2. Payments of principal or interest on any mortgage obligation (which shall not include any prepayment of principal on a mortgage obligation)
3. Rent payments, including rent under a lease agreement (which shall not include any prepayment of rent)
4. Business debt service (principal and interest, not including any prepayments)
5. Utilities for which service began before March 11, 2021
6. Maintenance expenses, including:
 - i. construction to accommodate outdoor seating; and
 - ii. walls, floors, deck surfaces, furniture, fixtures, and equipment.
7. Supplies, including protective equipment and cleaning materials
8. Food and beverage expenses that are within the scope of the normal business practice of the eligible entity before the Covered Period
9. Covered supplier costs, as defined in section 7A(a) of the Small Business Act (as redesignated, transferred, and amended by section 304(b) of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Public Law 116-260))
10. Business operating expenses defined as incurred through normal operations that are necessary and mandatory for the business

Returning Grant Funds

If an eligible entity that receives a grant fails to use all grant funds or permanently ceases operations on or before the last day of the Covered Period, the eligible entity shall return to the Treasury any funds that the eligible entity did not use for the allowable expenses.

How to Apply

There are three ways to apply for the Fund:

- Through a recognized SBA Point of Sale (POS) Restaurant Partner (to be announced) if used by the applicant
- [Through the SBA directly](#) if a POS Partner is not used and have internet access
- Telephonically at (844) 279-8898

All applicants must supply documentation of their gross receipts for any of the periods listed, and if applicable, of eligible expenses. Tax returns, bank statements, externally or internally prepared financials statements and point of sale reports, including IRS form 1099-K are acceptable documentation.

Required Certifications

An eligible entity applying for a grant shall make a good faith certification that:

- i. the **uncertainty of current economic conditions** makes necessary the grant request to support the ongoing operations of the eligible entity; and
- ii. the eligible entity has not applied for or received a grant under section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act

Use of Funds Validation

Not later than December 31, 2021, all grantees are required to report through the application portal the portion of their award that has been used against each eligible use category. If not fully expended at that time, grantees will be required to complete annual reporting submissions until they fully expend the award or the covered period expires.

[Click here for the guide to the Restaurant Revitalization Funding Program.](#)

Tax Treatment of these Grants

Pursuant to Section 9673 of the ARP, Restaurant Revitalization Grants received from

the SBA shall **not** be included in the gross income of the entity that receives such amounts and the qualified expenses incurred in usage of the Grant remain tax deductible.

Greg Wank, Anthony Bracco and David Beckman continue to monitor ongoing updates to the PPP Program and other relief programs such as the Restaurant Revitalization Grant. To better understand how the changes impact your unique situation, please contact one of the above leaders, your Anchin Relationship Partner or our Anchin COVID-19 Resource Team at COVID19@anchin.com.

Disclaimer: Please note this is based on the information that is currently available and is subject to change.