

Restaurant Revitalization Fund: Updated Guidance for Restaurants, Bars and More

The American Rescue Plan Act of 2021, signed into law on March 11, 2021, established the Restaurant Revitalization Fund (RRF). The RRF earmarks \$28.6 billion in grants to restaurants, bars, breweries, wineries, distilleries, caterers, food trucks and similar businesses. The Small Business Administration (SBA) will administer the RRF and provide the grants, which are intended to cover a business's total pandemic-related revenue losses.

Timing

Be ready to act fast: The SBA will generally award grants to eligible entities in the order that applications are received. Like the first round of the Paycheck Protection Program (PPP), there is expected to be a stampede of applicants when the program opens. The demand for grants is expected to outstrip supply. The RRF is not yet up and running, but the SBA has said it will begin accepting applications soon.

Priority

For the first 21 days of the program, the SBA will only process and fund applications where the applicant is a small business that is at least 51 percent owned and controlled by women, veterans or socially and economically disadvantaged individuals. [note]Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Individuals who are members of the following groups are presumed to be socially disadvantaged: Black Americans, Hispanic Americans, Native Americans (including Alaska Natives and Native Hawaiians), Asian Pacific Americans and Subcontinent Asian Americans.

Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.[/note] Applicants must self-certify that they meet these priority-related requirements.

However – and this is critical – all eligible businesses should aim to apply on day

POSTED:

Apr 23, 2021

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one, even if they do not fit within one of the priority groups. The SBA will accept applications from all eligible applicants during this priority window. Get in line for the funds before they dry up.

Eligible Entities

Eligible entities (collectively, a restaurant) are:

- Restaurants;
- Bars, saloons, lounges and taverns;
- Breweries, wineries and distilleries;
- Brewpubs, tasting rooms and taprooms;
- Food stands, food trucks and food carts;
- Caterers;
- Licensed facilities or premises of a beverage alcohol producer where the public may taste, sample or purchase products;
- Snack and nonalcoholic beverage bars;
- Bakeries;
- Inns; and
- Other similar places of business in which the public or patrons assemble for the primary purpose of being served food or drink.

Eligibility for breweries, wineries, distilleries, brewpubs, tasting rooms, taprooms and bakeries is limited to those that had on-site sales to the public of at least 33 percent of gross receipts in 2019. Eligibility for inns is limited to those that had on-site sales of food and beverage to the public of at least 33 percent of gross receipts in 2019.

The following are some of the businesses excluded from the RRF:

- A publicly traded company;
- A business that, as of March 13, 2020, owned or operated (together with any affiliated business) more than 20 locations;

- A government-operated business;
- A business that has a pending application for or has received a "Shuttered Venue Operators" grant;
- A non-profit organization;
- A business that has filed for bankruptcy under Chapter 7 or is permanently closed; and
- A business that has filed for bankruptcy under Chapter 11 but does not have an approved plan for reorganization.

Size of the Grants

The grant amount is intended to cover the applicant's pandemic-related revenue losses.

There are different calculations for the grant amount, depending on when the restaurant began operations (that is, began making sales).

Time Restaurant First Began Operations (Making Sales)	Calculation
Restaurants that were in operation prior to or on January 1, 2019	(2019 gross receipts) – (2020 gross receipts) – (PPP loans received)
Restaurants that began operations partially through 2019	Restaurant may choose between either of the following calculations: (average monthly 2019 gross receipts multiplied by 12) – (2020 gross receipts) – (PPP loans received) or (eligible expenses incurred on or between February 15, 2020 and March 11, 2021) – (2020 and 2021 (through March 11, 2021) gross receipts) – (PPP loans received)

Time Restaurant First Began Operations (Making Sales)	Calculation
Restaurants that began operations on or between January 1, 2020 and March 10, 2021 and Restaurants that, as of March 11, 2021, were not yet open for sales but had incurred eligible expenses	(eligible expenses incurred on or between February 15, 2020 and March 11, 2021) – (2020 and 2021 (through March 11, 2021) gross receipts) – (PPP loans received)

Notwithstanding the calculations above, the maximum grant amount is \$5 million per location (not to exceed \$10 million total for the applicant and any affiliated businesses) and the minimum grant amount is \$1,000.

Gross receipts is generally considered to mean all revenue in whatever form received or accrued from whatever source. Some exceptions include amounts received from PPP loans, Economic Injury Disaster Loans (EIDL) and state and local grants.

Eligible Expenses

A broad range of categories constitutes eligible expenses:

- Payroll costs (with certain exceptions, such as employee compensation greater than \$100,000 annually);
- Principal and interest payments on a mortgage (excluding prepayments);
- Rent payments (excluding prepayments);
- Debt service (principal and interest, but excluding prepayments);
- Utilities;
- Maintenance expenses (including walls, floors, deck surfaces, furniture, fixtures and equipment);
- Construction of outdoor seating;
- Supplies (including personal protective equipment and cleaning materials);
- Food and beverage expenses (including raw materials for beer, wine or spirits);



- Operating expenses incurred through normal business operations that are necessary and mandatory for the business; and
- Certain covered supplier costs.

The restaurant must use all of the RRF grant proceeds by March 11, 2023 on eligible expenses that were/are incurred during the period beginning February 15, 2020 and ending March 11, 2023. If a restaurant does not fully use the grant funds (including if the restaurant permanently closes) during this timeframe, the unused funds must be returned. Restaurants will need to report to the SBA how much of their grant has been used for each category of eligible use.

Certifications

Each applicant must make several good faith certifications, including that current economic uncertainty makes the funding request necessary to support the ongoing or anticipated operations of the restaurant.

How to Apply

Applications are not yet being accepted, but the SBA has outlined a few ways applications will be submitted. The SBA has partnered with certain restaurant point-of-sale (POS) vendors (for example, Square and Toast) to allow restaurants to use data from, and apply directly through, the POS vendor's website or portal. According to the SBA, this approach will lead to the fastest turnaround time. Restaurants will also be able to apply online through the SBA's website and over the telephone.

What to Do Right Now?

Potential applicants should gather documents evidencing gross receipts and eligible expenses, such as tax returns, financial statements, bank statements and POS reports. Further, applicants that are a brewery, winery, distillery, brewpub, tasting room, taproom, bakery or inn should collect documents as to on-site sales.

Contrary to early speculation, registration with SAM.gov is not required, nor is a DUNS number.

There will no doubt be further guidance setting forth updates and other changes to the program.

If you have any questions about the RRF, please contact [Bob Heinrich](#) or your



Reinhart attorney.

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