JTaylor™

Advisory | Assurance | Tax

Restaurant Revitalization Fund

What You Need to Know to Apply

In response to the extreme challenges experienced by the restaurant industry throughout the COVID-19 pandemic due to restrictions implemented to slow the spread of the virus, the American Rescue Plan Act (ARPA) established the Restaurant Revitalization Fund (RRF). Eligible entities can apply for funding from the Small Business Association (SBA). Funds used for eligible expenses during the covered period do not have to be repaid.

Program Overview

The RRF was allocated $28.6 billion in funding, which will be administered through the SBA. Eligible entities may apply for awards which will range from a minimum of $1,000 to a maximum of $5 million per location or $10 million per applicant, including affiliated businesses. Funds are not required to be repaid so long as they are used for eligible purposes no later than March 11, 2023. The SBA began accepting applications on May 3, 2021, and will award funds as applications are processed until all allocated funds have been expended. For the first 21 days, the SBA will prioritize applications from businesses owned by women, veterans, and minorities. However, businesses are strongly encouraged to submit their applications as soon as possible, as it is widely expected that the funds will be depleted quickly. While applications from a non-priority business may not be processed during the 21-day period, they would effectively be “first in line” for processing once the priority period expires.

The SBA has set aside specific funding amounts to ensure smaller businesses and those in underserved communities are able to benefit from this program. $500 million is set aside for applicants with 2019 gross receipts of $50,000 or less; $5 billion for applicants with 2019 gross receipts of $500,000 or less, and $4 billion for applicants with 2019 gross receipts between $500,001 and $1.5 million.

Eligibility Requirements

The following types of businesses are eligible if they have experienced losses related to the pandemic:

- Restaurants;
- Food trucks/stands/carts;
- Caterers;
- Bars, saloons, lounges, and taverns;
- Snack and non-alcoholic beverage bars;
- Licensed facilities or premises of a beverage alcohol producer where the public may taste, sample, or purchase products; and
- Other similar places of business in which the public or patrons assemble for the primary purpose of being served food or drink.

Additionally, the following businesses may be eligible if on-site sales to the public comprised at least 33% of gross receipts in 2019, or, if the business opened in 2020 or has not yet opened, had a business model that contemplated on-site sales of that level:

- Bakeries;
- Brewpubs, taprooms, or tasting rooms;
- Breweries/microbreweries;
- Wineries and distilleries; and
- Inns (onsite food and beverage sales must comprise 33% of gross receipts).

Any of these types of business located in an airport terminal or independently operated inside another business (such as in a hotel or conference center) may also be eligible.

For the purpose of the 33% test, on-site sales include sales of food and beverages consumed on the premise, purchased at the premise to-go, purchased online and picked up from the premise, or delivered directly to a customer for use. Wholesale sales are not included.

If a business received a Shuttered Venue Operator Grant from the SBA, or if they have a pending application for one, they would be ineligible for the RRF. Businesses that have permanently closed are also ineligible, as are entities who filed Chapter 7 bankruptcy or who wiled Chapter 11, 12, o3 13 bankruptcy but are not operating under an approved plan of reorganization. Additionally, businesses operated by state or local governments, non-profit organizations, publicly traded companies, or businesses (together with any affiliated business) with more than 20 locations are not eligible for the RRF program.

Priority Applicants

For the first 21 days of the application period, the SBA will prioritize funding for small businesses in which women, veterans, and/or socially and economically disadvantaged individuals, and in which women collectively hold at least a 51% ownership interest and control the management and daily business operations. Applicants must self-certify that they meet this requirement. While certain individuals might qualify for more than one priority category, each owner may be counted only once in the determination of whether the 51% ownership threshold is met.

For the purposes of determining priority status, businesses must be considered small based on SBA's size standards[i], which vary by industry. Socially disadvantaged individuals are defined as "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; or Subcontinent Asian Americans."[ii] Economically disadvantaged individuals are defined as "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."[iii]

Determination of Funding Amount

The SBA application provides four different calculation methodologies for determining the funding amount. Calculation 1 is applicable to businesses that were operating on or before January 1, 2019. Businesses that began operations during 2019 may elect to use either Calculation 2 or Calculation 3. Applicants that began operating between January 1, 2020, and March 10, 2021, or that had not yet opened for sales as of March 11, 2021 but have incurred eligible expenses, should use Calculation 3. Calculation 4 should be utilized by applicants that operate multiple locations in order to determine the aggregate funding amount.

Calculation 1 (Operating Throughout 2019)		
	2019 Gross Receipts	As reported on 2019 Federal tax return
Less	2020 Gross Receipts	As reported (or to be reported) on 2020 Federal tax return
Less	PPP Loan Disbursements	Aggregate amount, whether received in 2020 or 2021; exclude any amounts repaid on or before May 18, 2020, under safe harbor
Equals	Preliminary Funding Amount	If >$5 million/location, reduce to $5M max. If <$1,000, applicant is ineligible.

Calculation 2 is the same as Calculation 1, except it uses Annualized 2019 Gross Receipts as the starting point, based on average monthly gross receipts for the months in operation.

Calculation 3 (Opened in 2020 or 2021, or Not Yet Open)		
	Total Amount of Eligible Expenses	Incurred between February 15, 2020, and March 11, 2021
Less	Gross Receipts Earned	Earned between January 1, 2020, and March 11, 2021
Less	PPP Loan Disbursements	Aggregate amount, whether received in 2020 or 2021; exclude any amounts repaid on or before May 18, 2020 under safe harbor
Equals	Preliminary Funding Amount	If >$5 million/location, reduce to $5M max. If <$1,000, applicant is ineligible.

Calculation 4 is used to aggregate the results of Calculations 1 – 3 that may have been utilized for multiple locations of a single applicant. Different methods may be used for each location. The aggregated funding amount is limited to $5 million per location and $10 million in the aggregate all locations and affiliates.

For the purpose of the funding calculations, the amount of gross receipts utilized varies by the type of tax return filed by the entity:

- Self-Employed – IRS Form 1040, Schedule C, Line 3
- Partnership – IRS Form 1065, Line 1c
- S-Corporation – IRS Form 1120-S, Line 1c
- C-Corporation – IRS Form 1120, Line 1c
- LLC – Use one of the above
- B Corporation – Use Line 1c from IRS Form 1120 or 1120S

Further, gross receipts should exclude the following:

- Paycheck Protection Program (PPP) loans (first or second draw);
- SBA Section 1112 payments;
- SBA Economic Injury Disaster (EIDL) loan, EIDL advance, or Targeted EIDL Advance;
- Randolph-Sheppard Act Financial Relief and Restoration Payments (FRRP) Appropriation;
- State and local small business grants (via CARES Act or otherwise);
- Taxes collected for and remitted to a taxing authority (such as sales tax collected from customers);
- Proceeds from transactions between an entity and its affiliates; and
- Amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder, or customs broker.

Eligible Uses of Funds

Funds from the RRF program may be used for the following expenses:

- Payroll costs, including costs related to the continuation of group insurance benefits;
- Principal and interest payments on business mortgage obligations (not including prepayment of principal);
- Business rent payments, including rent under a lease agreement (not including prepayment of rent);
- Principal and interest on business debt (not including any prepayment);
- Business utility payments (electricity, gas, water, telephone, internet, etc.) for which services began before March 11, 2021;
- Business maintenance expenses;
- Construction of outdoor seating;
- Business supplies, including protective equipment and cleaning materials;
- Business food and beverage expenses, including raw materials for beer, wine, or spirits;
- Covered supplier costs for goods that are essential to the operations of the entity at the time the expenditure is made, and is made pursuant to a contract or purchase order in place (1) prior to receipt of funds from the RRF program or (2) for perishable goods, before or at any time during the covered period; and
- Business operating expenses (incurred through normal operations that are necessary and mandatory for the business, such as rent, equipment, supplies, inventory, accounting, training, legal, marketing, insurance, licenses, and fees.

Past due expenses are also eligible if they were incurred between February 15, 2020 and March 11, 2023.

Covered Period

All funds received through the RRF program must be used on eligible expenses incurred from February 15, 2020, to March 11, 2023. If the business permanently closes prior to March 11, 2023, the covered period will end on the closure date. Any funds not used on eligible expenses incurred during the covered period must be returned.

Certifications and Reporting

Applicants will be required to make a good faith certification that "current economic uncertainty makes this funding request necessary to support the ongoing or anticipated operations of the Applicant,"[iv] and that the applicant neither has a pending application for nor has received a Shuttered Venue Operator grant from the SBA.

Businesses that receive funds from the RRF will be required to report the amounts used for each category of eligible expenses. Reporting will be required on an annual basis until all funds have been expended for eligible purposes, with the first report due no later than December 31, 2021. Reporting will be provided through the application portal, and the SBA reserves the right to request supplemental documentation.

How to Apply

Certain SBA partners have developed tools to help applicants apply through funding through their website or secure portal to streamline the process. Currently, participating partners include Square, Toast, Clover, NCR Corporation (Aloha), and Oracle. If you already work with these vendors, you can apply for the RRF through them. Otherwise, it is recommended that you utilize the SBA online application portal. You will complete the questionnaire and attestations, and upload required documentation. Once the application has been completed, the applicant will be sent a DocuSign package to execute. *It is important to note that the SBA review process will not begin until you have executed the DocuSign package.* It is anticipated that the review process will take approximately 14 days.

The SBA also has an avenue for applicants to apply via telephone; however, this will slow down the process significantly as the paperwork will have to be mailed to the applicant, notarized, and returned to the SBA. It is possible that RFF funds could be depleted before this application process is completed.

Required documentation includes applicable tax returns, bank statements, financial statements (internally or externally prepared), and point of sale reports (IRS Form 1099-K). Entities that must meet the 33% of gross sales requirement will need to provide additional documentation to demonstrate that they met the required threshold. Additionally, applicants must list all owners of 20% or more of the business, and provide their Employer Identification Number (EIN), Social Security Number (SSN), or Individual Taxpayer Identification Number (ITIN). If an owner of 20% of more does not have a SSN or ITIN, the business is not eligible.

Action Steps

Given the limited amount of funding allocated to this program and the expected high demand, it is imperative that eligible businesses act quickly to submit their applications. However, be mindful that once an application is submitted, any required corrections will restart the timeline for SBA processing. Therefore, ensure that the calculation of the funding amount is accurate and that all required documentation is complete. Corrections cannot be made once funds are awarded.

Also, ensure that you have a plan in place to isolate funds received from the RRF program and track their usage on approved expenses as amounts are expended. This will allow you to appropriately perform the required reporting and provide supporting documentation as may be requested by the SBA.

---

[i] 13 CFR § 121.201
[ii] United States. *U.S. Small Business Association (SBA), Office of Capital Access.* "Restaurant Revitalization Funding Program, Program Guide as of April 28, 2021" United States, 2021. https://www.sba.gov/sites/default/files/2021-04/Restaurant%20Revitalization%20Fund%20Program%20Guide%20as%20of%204.28.21-508_0.pdf, Accessed 5 May 2021.
[iii] Ibid.
[iv] Ibid.