

***S.4008 – Small Business COVID Relief Act of 2022.***

**SECTION-BY-SECTION**

**Subtitle A: Restaurant Revitalization Fund Replenishment and Improvements**

**Section 4101: Appropriations**

- Provides an additional \$40 billion to provide grants from the Restaurant Revitalization Fund, authorized in Section 5003 of the American Rescue Plan.
- Provides that not more than \$250 million of the funding shall be available for administrative expenses of the Small Business Administration to carry out the program and \$20 million for the Office of Inspector General to carry out oversight of the program and for necessary expenses of the office.
- Removes the 21-day priority period for businesses owned by women, veterans and members of socially and economically disadvantaged groups required under Section 5003(c)(3) of the American Rescue Plan.

**Section 4102: Insufficient Funding**

- Provides that, in the event of a determination by the Administrator that the funding available is not sufficient to provide full grants to eligible applicants that have not received funding before the date of enactment, the Administrator shall either provide prorated grants to all eligible applicants, establish a maximum grant amount that ensures that all smaller eligible applicants receive full awards, or set an award threshold beneath which the agency will make full grants and above which grants will be prorated. The section permits the administrator to reserve funding to accommodate grantees that successfully petition for reconsideration.

**Section 4103: Data Transparency and Customer Service**

- Requires the Administrator to publish biweekly reports showing the total number of applications received, total applications reviewed or in process, the total number of applications reaching final decision, the total number of awards made, and the total number of awards disbursed.
- Requires the Administrator to publish on a weekly basis the name of the recipient, the recipient's business type, and the award amount for all grants issued.
- Requires the Administrator to make available to any denied applicant a brief explanation for denial, including the legal basis supporting the decision.
- Requires the Administrator to establish a reconsideration process for denied applicants.
- All of the provisions within this section are applied retroactively to include awards made with funding from the American Rescue Plan.

**Section 4104: Oversight and Audits**

- Requires the Administrator to establish an audit plan for grants made from the Restaurant Revitalization Fund, including document retention requirements and oversight of awards.
- Requires the Administrator to submit an audit plan to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives within thirty days of enactment.
- Requires the Administrator to provide reports to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on audit and oversight activities, including the number of grants awarded, amounts received by each grantee, the number of active investigations, the number of completed reviews and audits, and any changes to the Administrator’s audit plan.

**Section 4105: Requirement of Continuing Operation**

- Prohibits the Administrator from distributing grants to entities that are no longer operating or that do not intend to reopen within six months.

**Section 4106: Emergency Designation**

- Designates appropriations provided in section 101 as emergency funding.

**Subtitle B Support for Additional Businesses Suffering Pandemic-Related Loss**

**Chapter 1- Support for Gyms and Fitness Facilities**

**Section 4211: Definitions**

- Defines eligibility to include a fitness facility with no more than 500 employees that offers instruction in a program of in-person physical exercise or offers space for individuals to take part in the preservation, maintenance, encouragement or development of physical fitness.
- Prohibits facilities for which the health and fitness component is incidental to the overall purpose of the facility and requires that the entity derive revenue primarily from membership dues or admission or participation fees.
- Requires an entity have suffered a pandemic-related loss of at least 25 percent.
- Limits eligibility to entities with 10 or fewer locations.

**Section 4212: Support for Gyms and Fitness Centers**

- Establishes the Gym and Fitness Center Recovery Fund within the Restaurant Revitalization Fund, stipulating that amounts within the Gym and Fitness Center Recovery Fund may not be used for purposes outlined in the Restaurant Revitalization Fund statute located in Section 5003 of the American Rescue Plan.
- Provides \$2 billion for the fund.

### **Section 4213: Grants from Fund**

- Requires that applicants make a good faith certification of need.
- Requires the Administrator to verify eligibility and award amounts using tax records and other reliable documentation.
- Requires the Administrator to begin accepting applications within 60 days of enactment.
- Limits grants to \$2 million for an entity or \$1 million for a single physical location, except that no grantee may receive an amount that is greater than half its 2019 gross receipts.
- Establishes a grant formula that is equal to the difference between 2019 and 2020 gross receipts minus 25 percent of 2019 gross receipts.
- Provides that, in the event of a determination by the Administrator that the funding available is not sufficient to provide full grants to eligible applicants, the Administrator shall provide grants to all eligible applicants that submit applications within 21 days on either a prorated basis, by establishing a maximum grant amount that ensures that all smaller eligible applicants receive full awards, or by setting an award threshold beneath which the agency will make full grants and above which grants will be prorated. The section permits the administrator to reserve funding to accommodate grantees that successfully petition for reconsideration.
- Describes the eligible expenses that awards may be used for.

## **Chapter 2 - Support for Minor League Sports**

### **Section 4221: Definitions**

- Defines eligibility as a minor league sports team whose gross receipts declined at least fifty percent between 2019 and 2020, but does not include teams that are owned by major league teams or who are owned by individuals that have greater than a 10% stake in a major league team. The team must be located in the United States, not be owned directly or indirectly by an educational institution, compensate its players, derive income primarily from in-person spectators, and have either a formal relationship with a major league team to develop players or compete in a league from which major league sports teams scout for prospective players.

### **Section 4222: Save Minor League Sports Fund**

- Establishes the Save Minor League Sports Fund within the Restaurant Revitalization Fund, stipulating that amounts within the Save Minor League Sports Fund may not be used for purposes outlined in the Restaurant Revitalization Fund authorizing statute located in Section 5003 of the American Rescue Plan.
- Provides \$500 million for the fund.

### **Section 4223: Save Minor League Sports Grants**

- Requires that applicants make a good faith certification of need.
- Requires the Administrator to verify eligibility and award amounts using tax records.
- Limits grants to \$5 million for an entity, except that no grantee may receive an amount that is greater than half its 2019 gross receipts.

- Establishes a grant formula that is equal to the difference between 2019 and 2020 gross receipts minus 25 percent of 2019 gross receipts.
- Provides that any entity that receives a grant that becomes more than fifty percent owned by a private equity fund or a major league team or that becomes a publicly traded company must return their grant.
- Provides that, in the event of a determination by the Administrator that the funding available is not sufficient to provide full grants to eligible applicants, the Administrator shall provide grants to all eligible applicants that submit applications within 21 days on either a prorated basis, by establishing a maximum grant amount that ensures that all smaller eligible applicants receive full awards, or by setting an award threshold beneath which the agency will make full grants and above which grants will be prorated. The section permits the administrator to reserve funding to accommodate grantees that successfully petition for reconsideration.
- Requires funds to be used within 18 months and describes the eligible expenses that awards may be used for.

### **Chapter 3- Support for Border Businesses Affected By Border Closures**

#### **Section 4231: Definitions**

- Defines eligibility to include a small business as defined under section 7(b)(2) of the Small Business Act that is located in the United States, has average gross receipts less than \$1 million in 2019, had pandemic-related losses of at least 25 percent, has between 1 and 25 employees, and is physically located either in a census tract that contains or intersects a land port of entry from Mexico or Canada, a census tract that is contiguous with a census tract that contains or intersects a land port of entry from Mexico or Canada that is not more than 50 miles from the U.S. and Mexico or U.S. and Canada border, or a Colonia.

#### **Section 4232: Border Closure Recovery Grant Program**

- Establishes the Border Closure Recovery Grant Fund within the Restaurant Revitalization Fund, stipulating that amounts within the Border Closure Recovery Grant Fund may not be used for purposes outlined in the Restaurant Revitalization Fund authorizing statute located in Section 5003 of the American Rescue Plan.
- Provides \$1.415 billion for the fund.

#### **Section 4233: Grants from the Fund**

- Requires that applicants make a good faith certification of need.
- Requires the Administrator to verify eligibility and award amounts using tax records.
- Requires the Administrator to begin accepting applications within 60 days of enactment.
- Limits grants to the lesser of \$350,000 or 50 percent of the recipient's 2019 gross receipts.
- Sets the award amount at the recipient's pandemic-related loss minus 25 percent of 2019 gross receipts.

- Provides that at least one-third of funding goes to businesses located in states along the southern border with Mexico, including colonias, and one-third of funding goes to businesses located along the northern border with Canada.
- Provides that, in the event of a determination by the Administrator that the funding available is not sufficient to provide full grants to all eligible applicants, the Administrator shall provide grants to all eligible applicants that submit applications within 21 days on either a prorated basis, by establishing a maximum grant amount that ensures that all smaller eligible applicants receive full awards, or by setting an award threshold beneath which the agency will make full grants and above which grants will be prorated. The section permits the administrator to reserve funding to accommodate grantees that successfully petition for reconsideration.
- Describes the eligible expenses that awards may be used for.

#### **Section 4234: Outreach**

- Provides that \$10 million of the funding provided under this subtitle will be used to fund six Community Navigator grants, including three along the border with Canada and three along the border with Mexico, to help border businesses with technical assistance.
- Requires the Administrator to enlist SBA resource partners to help raise awareness of the program under this subtitle.
- Requires outreach to be conducted in the ten most common foreign languages in border states.

### **Chapter 4- Support for Live Venue Service and Support Companies**

#### **Section 4241: Definitions**

- Defines eligibility to include businesses assigned a North American Industry Classification System code 532289, 532490, 541410, 541420, 541430, 541490, 561591, 561920, 711190, 711300, or 711320.
- Businesses must either 1) provide stages, lighting, sound, casts or other support for live events and receive 70 percent of their earned revenue from events at venues described in section 324(a)(1)(A)(iii) of the Shuttered Venue Operators Grant program; or 2) showcase performers or pre-packaged productions to potential buyers that generate at least 65 percent of their earned revenue either from convention center facilities or from events at venues described in section 324(a)(1)(A)(iii) of the Shuttered Venue Operators Grant program.
- A business must have 250 employees or fewer as determined on a full-time equivalency basis, must be located in the United States, must have losses of at least 25 percent, and may not have more than five locations.

#### **Section 4242: Live Venue Service and Support Business Relief Fund**

- Establishes the Live Venue Service and Support Business Relief Fund within the Restaurant Revitalization Fund, stipulating that amounts within the Live Venue Service

and Support Business Relief Fund may not be used for purposes outlined in the Restaurant Revitalization Fund authorizing statute located in Section 5003 of the American Rescue Plan.

- Provides \$2 billion for the fund.

#### **Section 4243: Grants from the Fund**

- Requires that applicants make a good faith certification of need.
- Requires the Administrator to verify eligibility and award amounts using tax records and other reliable sources.
- Requires the Administrator to begin accepting applications within 60 days of enactment.
- Limits grants to \$2 million.
- Sets the award amount at the recipient's pandemic-related loss minus 25 percent of 2019 gross receipts.
- Provides that, in the event of a determination by the Administrator that the funding available is not sufficient to provide full grants to all eligible applicants, the Administrator shall provide grants to all eligible applicants that submit applications within 21 days on either a prorated basis, by establishing a maximum grant amount that ensures that all smaller eligible applicants receive full awards, or by setting an award threshold beneath which the agency will make full grants and above which grants will be prorated. The section permits the administrator to reserve funding to accommodate grantees that successfully petition for reconsideration.
- Describes the eligible expenses that awards may be used for.

### **Chapter 5- Support for Exclave Community Small Businesses**

#### **Section 4251: Definitions**

- Defines eligibility to include small business concerns as defined in section 3 of the Small Business Act that are: 1) located in communities in the United States within 75 miles of the Canadian border that are only accessible by land via Canada; and 2) that certify that the closure of the international border between the United States and Canada either directly resulted in reduction in the gross receipts of the eligible entity or restricted the ability of customers to access the location of business.
- An eligible business must have suffered pandemic related losses of 25 percent or more and may not operate more than 10 locations.

#### **Section 4252: Exclave Community Small Business Relief Fund**

- Establishes the Exclave Community Small Business Relief Fund within the Restaurant Revitalization Fund, stipulating that amounts within the Exclave Community Small Business Relief Fund may not be used for purposes outlined in the Restaurant Revitalization Fund authorizing statute located in Section 5003 of the American Rescue Plan.

- Provides \$85 million for the fund, of which \$75 million are designated for exclaves adjacent to the Canadian border with Alaska and \$10 million is designated for exclaves adjacent to the Canadian border with the continental United States.

### **Section 253: Grants from the Fund**

- Requires that applicants make a good faith certification of need, including a certification that the border closure either reduced gross receipts of the applicant or restricted the ability of customers to access the location of the covered business.
- Requires the Administrator to verify eligibility and award amounts using tax records and other reliable sources.
- Requires the Administrator to begin accepting applications within 60 days of enactment.
- Limits grants to \$3 million.
- Sets the award amount at the recipient’s pandemic-related loss minus 25 percent of 2019 gross receipts.
- Provides that, in the event of a determination by the Administrator that the funding available is not sufficient to provide full grants to all eligible applicants, the Administrator shall provide grants to all eligible applicants that submit applications within 21 days on either a prorated basis, by establishing a maximum grant amount that ensures that all smaller eligible applicants receive full awards, or by setting an award threshold beneath which the agency will make full grants and above which grants will be prorated. The section permits the administrator to reserve funding to accommodate grantees that successfully petition for reconsideration.
- Describes the eligible expenses that awards may be used for and prohibits awards from being used for expenses incurred outside the exclave.

## **Chapter 6- Administration and Implementation of Support Programs**

### **Section 4261: Definition**

- Defines “covered program” to mean all programs authorized under title II for purposes of this subtitle.

### **Section 4262: Data Transparency and Customer Service**

- Requires the Administrator to maintain regular communication with applicants and their representatives by hosting regularly scheduled information sessions and providing opportunities to submit and receive answers to questions.
- Requires the Administrator to publish bi-weekly reports showing the number of applications received, reviewed, awarded and disbursed.
- Requires the Administrator to publish on a weekly basis the names, addresses, and award amounts for all grantees for all covered programs.
- Provides denied applicants with the opportunity to receive a brief explanation for their denial, to submit clarifying information, and to have their applications reconsidered.

**Section 4263: Business Identifiers**

- Allows the Administrator to require alternate business identifiers on application documents to prevent applicants from having to register for new identifiers that may not be common to the applicant's industry, particularly if doing so would create an additional burden for the applicant.

**Section 4264: Applications**

- Permits the Director of the Office of Management and Budget to waive requirements contained within 2 CFR 200 if doing so would prevent potential grantees from failing or suffering undue hardship and so long as applicants are required to report to the Administrator on the use of grant funds.
- Directs the Director of the Office of Management and Budget to prioritize administrative continuity for covered programs with the Restaurant Revitalization Fund.
- Prohibits the Administrator from denying applicants solely on the basis of having had an application to another SBA program denied.

**Section 4265: Prohibition on Participation in Multiple Programs**

- Prohibits businesses from receiving awards from more than one covered program or a grant under title IV, but permits an applicant to withdraw pending applications to other programs while applying for a covered program.

**Section 4266: Transfer of Funds**

- Allows the Administrator to transfer funds from a covered program that has sufficient funding to other covered programs no earlier than thirty days after the Administrator begins accepting applications for that covered program.

**Section 4267: Oversight and Audits**

- Requires the Administrator establish an oversight and audit plan for covered program grantees, which shall include documentation and record retention requirements, a plan for compliance reviews, and the establishment of enforcement procedures and repayment requirements for grantees found to be ineligible.
- The plan, along with the policies and metrics the Administrator intends to employ when carrying it out, must be submitted to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives within 45 days of enactment.
- Requires the Administrator to submit a report every thirty days to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the agency's oversight and audit activities.

**Section 4268: Administrative Funding**

- Provides \$150 million for use by the Administrator to carry out covered programs, including \$20 million for the Inspector General's Office.



**Section 4269: Gross Receipts**

- Permits the Administrator to measure gross receipts using either the calendar or fiscal year.

**Section 4270: Rules**

- Requires the Administrator to issue interim final rules to carry out each covered program within 60 days.

**Subtitle C: Other SBA Program Improvements**

**Section 4301: Shuttered Venue Operators**

- Extends the date by which recipients of Shuttered Venue Operator Grants may incur expenses that can be reimbursed with award funding to March 11, 2023 and extends the date by which recipients must return unused funding to the Administrator to April 15, 2023.

**Section 4302: Treatment of Paycheck Protection Program Loan Forgiveness of Payroll Costs Under Highway and Public Transportation Project Cost Reimbursement Contracts.**

- Exempts certain government contractors from requirements that would require them to remit forgiven amounts under a Paycheck Protection Program loan to the government agency with which they entered into the contract.

**Subtitle D: Transportation Services**

**Section 4401: Additional Assistance for Eligible Providers of Transportation Services Affected by COVID-19**

- Provides an additional \$2 billion for grant funding to the Department of Treasury's Coronavirus Economic Relief for Transportation Services (CERTS) program for buses and ferries, including local and intercity fixed-route service, commuter service, charter or tour service, school buses, and passenger and pilotage vessels.

**Subtitle E: Offsets**

**Section 4501: Offsetting Rescissions**

- Rescinds \$2,982,000,000 appropriated for PPP funding provided under section 323(d)(1)(A) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260)

- Rescinds \$1,904,000,000 appropriated for PPP under section 1107(a)(1) of the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. 9006(a)(1)).

#### **Subtitle F: Budgetary Effects**

##### **Section 4601: Budgetary Effects**

- Designates funding made in this act as emergency funding.
- Designates the act as an emergency requirement pursuant to subsections (a) and (b) of section 4001 of S. Con. Res. 14 (117th Congress), the concurrent resolution on the budget for fiscal year 2022.