President Joe Biden signed the American Rescue Plan Act into law Thursday, creating a $28.6 billion fund for the restaurant industry.

Let's go through what's available.

- Eligible businesses can receive a tax-free federal grant equal to the amount of its pandemic-related revenue loss, which is calculated by subtracting 2020 gross receipts from 2019 gross recipes.
- If the restaurant was not in operation for the entirety of 2019, the total is the difference between 12 times the average monthly gross receipts for 2019 and the average monthly gross receipts in 2020 (or a formula from SBA).
- If the business was not in operation until 2020, it can receive a grant equal to the amount of "eligible expenses" subtracted by its gross recipes received.
- If the restaurant was not yet in operation as of the application date, but it has made "eligible expenses," the grant would be made equal to those expenses.

Deduction of first and second draw PPP loan funds

Pandemic-related revenue losses for businesses are reduced by any amounts from PPP first draw and second draw loans in 2020 and/or 2021.

Distribution

The SBA can adjust awards based on demand and "relative local costs" in the markets where Restaurant Revitalization Fund businesses operate.

- $23.6 billion is available for the SBA to award in an equitable manner to businesses of different sizes based on annual gross receipts.
- $5 billion is available to restaurants with gross receipts of $500,000 or less during 2019 (this is targeted toward independent entities).
- Maximum: The total grant amount for an eligible business and any affiliated businesses is capped at $10 million and is limited to $5 million per physical location of the business.

Some other things to consider:

The program will, for a 21-day period out of the gate, prioritize awarding grants for small businesses owned and controlled by women, veterans, or socially and economically disadvantaged operators. This is an effort to include and push forward some of the same parties that felt left out by the PPP in its initial go-around.

Eligible expenses are those incurred from February 15, 2020, to December 31, 2021, or a date determined by the SBA. If all grant funds are not spent by the business, or the business permanently closes before the end of the covered period, the business must return unused funds to the Treasury.

Perhaps the biggest change from the PPP concerns eligible expenses. Restaurants can use funds on payroll; principal or interest on mortgage obligations; rent; utilities; maintenance including construction to accommodate outdoor seating; supplies such as protective equipment and cleaning materials; normal food and beverage inventory; certain covered supplier costs; operational expenses; paid sick leave; and any other expenses that the SBA determines to be essential to maintaining operations.

The PPP, after adjustments were made in June, required a 60/40 split with the higher figure spent on payroll in order to get the loan forgiven. That was reduced from 75/25 originally.

Unlike the PPP, the Restaurant Revitalization Fund will be administered by the SBA.

Who is eligible?

To receive a grant, you must own or operate 20 or fewer establishments (together with any affiliated businesses), regardless of ownership type of the locations and whether those locations do business under the same or multiple names, as of March 13, 2020. Under the Restaurant Revitalization Fund, if you own 20 or fewer restaurants, you’re in.

With that said, eligible entities include a restaurant, food stand, food truck, food cart, caterer, saloon, inn, tavern, bar, lounge, brewpub, tasting room, taproom, licensed facility or premise of a beverage alcohol producer where the public may taste, sample, or purchase products, or other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink.

These businesses can apply using their existing business identifiers, as the SBA will avoid imposing additional burdens on applications.

One thing to point out—publicly traded companies are ineligible.

Restaurants must submit a good faith certification when applying that:

- Uncertainty of current economic conditions makes necessary the grant request to support the ongoing operations.
- The entity has not applied for nor received a “Shuttered Venue Operators” grant (generally for performing arts, live venues, theaters, etc.).
- The grants are not taxed like income, and all normal federal tax deductions are protected.

Also to consider: The ERTC, which allows employers to write off up to 70 percent of funds spent to pay employees, is extended by two months in the American Rescue Plan, through August. The credit, taken against the restaurant’s portion of Social Security Taxes, can go up to $7,000 per quarter, per employee. It targets operators who retained staff.

The PPP received an additional $7.25 billion in funding from the Plan. Deadline for applications remains March 31.