

# **RULES FOR PARTICIPATION IN THE OKLAHOMA BUSINESS RELIEF PROGRAM**

The Oklahoma Business Relief Program ("OBRP" or "the program") is designed to provide necessary relief to Oklahoma businesses who have been negatively impacted by the effects of COVID-19. The Governor of the State of Oklahoma, Kevin Stitt, has designated up to fifty million dollars (\$50,000,000) of money received by the State of Oklahoma from the Federal CARES act to provide to some businesses to assist in ensuring the survival and stability of these crucial businesses and non-profit organizations. Governor Stitt has found that these grants are necessary to respond to the second order effects of the emergency by providing economic support to some of the businesses harmed by the effects of COVID-19.

## **RULES FOR PARTICIPATION:**

### **SECTION I: DEFINITIONS**

The following definitions shall apply throughout all of the documents associated with the OBRP:

- "Business/businesses" shall include all legal forms of for profit entities including but not limited to sole proprietorships, independent contractors, partnerships, and corporations physically located in Oklahoma. It shall also include non-profit entities as defined within sections 501(C)(3) and 501(C)(6) of the Internal revenue code. Entities using the same FEI number shall all be considered one "business" for purposes of this program. Each business can only receive one grant under this program.
- "Businesses who engage in adult activities" shall refer to businesses who present live performances of a prurient sexual nature and/or who derive revenue through the sale of products or services, or the presentation of any depictions or displays, of a prurient sexual nature.
- "Businesses who engage in gambling activities" shall include any business who allows for gambling activity on their facility or who derives any income from these activities. The term "gambling activities" shall not include transactions involving Oklahoma Lottery products.
- "Minority owned business" is a business owned, in whole or in part, by a member of a racial or ethnic minority. An owner shall be considered a member of a racial or ethnic minority if their race or ethnicity is listed as something other than White / Caucasian as reflected on the owner's birth certificate, US Passport or Tribal ID.

- "Participating financial institution" (or "PFI") refers to any bank or credit union who is either FDIC or NCUA insured that is a depository institution with a physical Oklahoma lending location or any Certified Community Development Financial Institution (CDFI) who chooses to participate in the OBRP.
- "Payroll" shall only include the following expenses:
  - Salary, wages, commissions, tips, bonuses and hazard pay
  - Employee benefits including costs for vacation, parental, family, medical, or sick leave allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit
  - State and local taxes assessed on compensation
  - For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment count as payroll expenses.

Payroll does not include money paid by a business to an independent contractor for goods or services.

- "Revenue generated from business activities" shall refer to revenue generated from the customary activities generated from the purpose of the business. This shall not refer to money received by the business as part of any federal relief such as grants or loans related to COVID-19 or other lending.

## **SECTION II: THE AWARD**

### **Part 1: Amount of award:**

- Businesses who are awarded grants may be awarded two months of their average total payroll up to \$25,000. This average total payroll may be the greater amount of:
  - The average 2019 monthly payroll for months where the business had payroll costs or
  - The average of their January 2020 and February 2020 monthly payroll

### **Part 2: Distribution of Award Funds; Minority Owned Businesses:**

- Grants shall be awarded on a first come, first serve basis.
  - This shall be calculated based on the time that the required documents are received by the Oklahoma Department of Commerce (ODOC) from the PFI until the allocated funding is depleted.
  - Notwithstanding this provision, of the total designated amount, ten million (\$10,000,000) shall be provided to qualifying businesses who are owned in whole, or in part, by a racial or ethnic minority.

- If there are not enough qualifying minority owned businesses to receive the full ten million dollars (\$10,000,000) in funds at the close of the application period, the excess funding shall be made available to the general applicant pool.

## **SECTION III: ELIGIBILITY REQUIREMENTS**

### **Part 1: Eligible Businesses:**

A business as defined in these rules who meets all of the following criteria may receive funding from the OBRP:

- Located in Oklahoma
- In good standing with the Oklahoma Secretary of State
- Current on their most recent quarterly or yearly taxes with the Oklahoma Tax Commission, depending on when the business is required to file.
- Must have suffered an average monthly loss of 25% or more in revenue generated from business activities from March of 2020 through May of 2020 as compared to the average monthly revenue for any one of the following periods: <sup>1</sup>
  - January 2019 through December of 2019
  - March 2019 through May of 2019
  - January 2020 through February of 2020
- Revenue loss must be substantially caused by the impact of COVID-19 and the grant must be necessary to help the business recover from the negative impacts of COVID-19. This revenue loss can be attributed to some or all of the following reasons:
  - Oklahoma Business locations (or portions thereof) were ordered closed for a period of time pursuant to executive order or an order of local government.
  - Oklahoma Business locations (or portions thereof) engaged in revenue generating business activities but with restrictions or on reduced hours due to an executive order, an order of local government, or in an effort to comply with social distancing recommendations.
  - Oklahoma Business otherwise suffered from reduced revenue due to decline in customers or clientele likely due to COVID-19 precautions being taken by potential customers or clients.

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<sup>1</sup> If a business is a new business who had yet to begin generating revenue from business activities for any of the months in the listed time periods, those months shall not be included in calculating the average.

*Example: If a business did not begin generating revenue until April of 2019, but then generated \$10,000 in revenue in April of 2019 and \$12,000 in revenue in May of 2019, the average monthly revenue for March through May of 2019 would be \$11,000*

- Business has operated continuously in Oklahoma from at least 1/1/2020 through the date that the application was submitted, to the extent authorized by law, and is a going concern for the future.
- Business is not an "ineligible business" as described within these rules.

**Part 2: Ineligible Businesses:**

A Business as defined in these rules who falls within one or more of the following categories are ineligible to participate in the OBRP:

- Publicly traded companies
- Government entities or agencies
- Banks, credit unions, life insurance companies, finance companies, factoring companies, investment companies, mortgage companies, bail bond companies, & other businesses whose stock in trade is money and mortgage companies
- Private clubs
- Lobbying firms
- Businesses who engage in gambling activities or adult activities,
- Businesses who generate any part of its income from activities performed in violation of State or Federal law including but not limited to businesses involved in the distribution, sale, cultivation or transportation of Marijuana.
- Businesses who are participating in or who expect to receive funds from the Oklahoma Manufacturing Reboot Program or Oklahoma Bounceback Program
- Businesses who do not meet the definition of "eligible businesses"
- Businesses who dedicate 50% or more of their time or resources to lobbying activities
- Businesses who exist for the purpose of advancing partisan political activities.

## **SECTION IV: USES OF FUNDS AND REPORTING REQUIREMENTS**

### **Part 1: Permissible Uses of Funds**

Program funds may be used for business expenses incurred from March 1, 2020 through December 30, 2020 relating to their Oklahoma business location(s) as long as the expenses do not violate State or Federal law and are not otherwise specified as impermissible uses of funds.

Examples of permissible expenses include, but are not necessarily limited to:

- business rent/mortgage payments,
- payroll expenses
- purchase of supplies and/or equipment
- Purchase of personal protective equipment for employees, customers or clients or other measures taken by the business to protect employees or clients from COVID-19
- Utility payments to non-governmental utility providers

### **Part 2: Impermissible Uses of Funds**

Program funds may not be used for the following purposes:

- Payment of property taxes
- Payment of non-business expenses
- Political purposes, whether or not the expenses are business related. These expenses include but are not limited to: lobbying activities; donating to a political party; donating to a political action committee or group; use of funds in support of (or in opposition to) a referendum or initiative petition
- Payments to cover specific expenses for which the business has or will otherwise receive reimbursement from another source including but not limited to: other government loan or grant programs or insurance coverage

**FUNDS WHICH IMPERMISSIBLY USED SHALL BE REPAID BY THE BUSINESS TO THE STATE WITHIN THIRTY (30) DAYS OF A WRITTEN REQUEST FOR REPAYMENT TRANSMITTED TO THE BUSINESS BY THE STATE**

### **Part 3: Reporting Requirements**

Businesses who receive funds from the program shall keep specific records of all specific expenses for which the funds were used for a period of five (5) years from the final expenditure of received funds. These records shall include but not be limited to: paid invoices, cancelled checks, payroll records and other documentation acquired when the permissible expense occurred. Business shall also keep copies of the documents relied upon by the business and by the PFI to establish their payroll and revenue losses as detailed within these rules.

Upon request, the business shall provide access to these records to the State of Oklahoma, its agencies, agents, directors, and/or any party who has contracted with the State for the exclusive purposes of evaluating or ensuring compliance with CARES act or OBRP program requirements.

At their own expense, the business shall prepare photocopies of all of these records to the State or any of the aforementioned parties upon written request of the State within a reasonable time of the request.

In the event that the business ceases operations during this five (5) year period, the business must provide photocopies of these records to the Executive Director of ODOC within thirty days of ceasing operations.

Failure to abide by the requirements in this part shall require the business to repay OBRP funds to the State of Oklahoma within thirty days of a written request for repayment.

## **SECTION V: THE APPLICATION; SUBMITTAL OF APPLICATION DOCUMENTS**

The following section describes the required documents as well as the flow of documents in the application process.

**THE BUSINESS SHALL NOT SUBMIT ANY DOCUMENTS DIRECTLY TO ODOC AS PART OF THE APPLICATION PROCESS FOR ANY REASON. FAILURE TO ABIDE BY THIS REQUIREMENT MAY CAUSE THE APPLICANT BUSINESS TO NOT RECEIVE FUNDS UNDER THE PROGRAM.**

### **Part 1: Transmittal of Documents and Receipt**

Businesses shall transmit all required documents as discussed in Parts 2 and 3 of this section directly to the PFI of their choice and shall not transmit the documents directly to ODOC.

A PFI shall transmit all required documents to ODOC as specified in part 4 of this section.

Documents submitted directly to ODOC by the applicant business will not be considered received for purposes of this program and will not be considered in the application review process.

### **Part 2: Required Documents to be Submitted by the Applicant Business to the PFI**

Applicant Businesses shall submit an application packet consisting of the following completed documents to a PFI:

- Rules
- Business Application for participation in the OBRP ("Business Application")
- Certification Letter for participation in the OBRP ("Certification Letter")
- A Photograph of the Oklahoma Driver's License, Oklahoma State Identification Card or Passport for the person completing the application on behalf of the business.
- The following business related documentation:
  - Documentation of the type customarily relied upon by a PFI in the ordinary course of business as necessary for the PFI to determine revenue losses for the business and establish eligibility for the program including, but not necessarily limited to:

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- Any relevant and accurate documents typically maintained in the ordinary course of business to show revenue received from business activities from January to May of 2020.
  - Any relevant and accurate document typically maintained in the ordinary course of business to show revenue received from business activities from January through May of 2019 if the business was operating prior to the year 2020.
- Documentation of the type customarily relied upon by a PFI in the ordinary course of business as necessary for the PFI to determine average payroll so that the PFI may calculate the grant amount that the business is eligible to receive including, but not necessarily limited to:
  - Payroll documentation indicating the business's average 2019 monthly payroll, if the business was operating in 2019.
  - Payroll documentation indicating the average of the business's January and February 2020 monthly payroll
- Documents proving current business ownership, formation prior to 1/1/2020 and continuous business activity from 1/1/2020 through the date of the grant application.
- Proof of payment of the business's most recent quarterly or yearly taxes with the Oklahoma Tax Commission; whichever the business is required to file.

A business shall only submit one application to one PFI. Violation of this rule by submission of multiple applications to multiple PFI's may cause the business to be denied participation in the program by ODOC.

A PFI may charge a fee of up to \$500 to a business who is actually awarded a grant under the program. This fee must be paid by the business to the bank and cannot be deducted from the initial payment of grant funds to the business.

### **Part 3: Optional Documents to be submitted to the PFI – Minority Owned Businesses**

If the business is applying as a minority owned business, a copy of a birth certificate, passport, or tribal ID of one of the owners of the business indicating that an owner is a member of a minority racial or ethnic group must also be provided

Failure to provide this information to the PFI shall cause the business not to be considered a minority owned business for purposes of the PFI.

### **Part 4: Submittal of documents to the Oklahoma Department of Commerce by the PFI**

Upon receipt of the application packet by the PFI from the applicant business, the PFI shall visit the website address for application submittals provided by ODOC and complete the online application located at the website.

When submitting the information through the online application, the PFI shall attach only the following documents received by the applicant business to the submittal:

- Completed copy of the Rules
- Completed copy of the Business Application
- Completed copy of the Certification Letter

The PFI shall not submit the business related documentation to ODOC as discussed in Part 2 of this section unless specifically requested to do so in writing by ODOC.

Failure to complete the required online application and attach all of the required documents may cause the application not to be deemed received by ODOC.

Upon disbursement of the funds to the approved applicant business, the PFI shall require that the business execute the receipt of funds document provided to the PFI by ODOC.

## **SECTION VI: PROGRAM TIMELINES**

Timelines for the program are as follows:

- Financial Institutions who wish to participate in the OBPR shall submit their application to participate as a PFI to ODOC at any time from now through **July 10, 2020**
- Businesses shall submit their application and all required documentation to the PFI at any time from **June 29, 2020 through July 10, 2020.**
- The PFI shall submit the online applications for each business to ODOC with the required attachments using the website provided to the PFI at any time from **June 29, 2020 through July 10, 2020.**
- Distribution of funding to the PFI shall begin on approximately **July 17, 2020.**



## **SECTION VII: PROGRAM PROCESS AND PROCEDURES**

The following provides the general process that Businesses and Banks shall follow concerning their participation in the program subject to the specific guidelines and timelines as otherwise included in these rules:

- First: A financial institution who meets the definition of a PFI as listed in these rules shall apply to ODOC to be deemed a PFI.
- Second: ODOC shall review the application of the PFI to ensure that the institution meets the qualifications.
- Third: If financial institution is selected to be a PFI, ODOC shall notify them of their acceptance into the program and provide them with information as to how their required documents may be transmitted to ODOC as well as information as to how they can receive payment.
- Fourth: A business who is an eligible business shall obtain copies of the rules, business application and certification letter, complete them, and submit them to the PFI to assist ODOC with a preliminary eligibility screening.
- Fifth: The PFI shall review the business related documentation as well as the completed Rules, Certification Letter and Business Application to the PFI and make a preliminary non-binding determination as to whether or not the applicant business meets program qualifications.
- Sixth: Regardless of the preliminary eligibility determination made by the PFI, the PFI shall transmit the online application on behalf of the applicant business with the required attachments as detailed in these rules.
- Seventh: ODOC shall review the online submittal of the PFI and make the final binding determination of the eligibility of the applicant business.
- Eighth: If the applicant business is deemed ineligible, ODOC shall transmit this determination to the PFI who will communicate the same to the applicant business upon receipt. There is no appeals process for a business who has been deemed ineligible and thus denied funds and the decision of ODOC shall be final.

OR

If the applicant business is deemed eligible, ODOC shall submit awarded funds to the PFI to transmit to the awarded business.

- Ninth: The PFI shall notify the representative of the awarded business that they received an award pursuant to the program.

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Applicant Initials:

- Tenth: Prior to receiving funds under the program, the representative shall sign a receipt of funds document provided by ODOC to the PFI acknowledging receipt of the awarded funds and further acknowledging requirements of the grant.
- Eleventh: The PFI shall transmit a copy of the receipt of funds document to ODOC within ten (10) business days of its execution and also maintain a copy for the PFI's records.

**SECTION VIII: SIGNATURE OF BUSINESS REPRESENTATIVE AND PFI REPRESENTATIVE:**

**Part 1: Signature of Business Representative**

By my signature below, and on behalf of the applicant business, I hereby certify the following to be true and correct under penalty of perjury:

- That I am an authorized representative for the applicant business
- That I have read and understand the rules contained in this document and agree to follow each of them.
- That I acknowledge that failure to follow the rules contained in this document may cause the receipt of the application by ODOC to be delayed or may cause the application to be denied by ODOC.
- That by submitting this application, I hereby hold harmless the PFI to whom this application is submitted, the State of Oklahoma, ODOC, the agents, employees or officers of these groups against any liability, loss or damages arising out of either application to or participation in this program and waive any claims that the business or I may have against these persons or groups to the maximum extent allowable by law. By way of example, this specifically includes, but is not limited to, any loss, damages or injury arising from the failure of the PFI to timely transmit the application packet to ODOC and/or the failure of ODOC to receive, locate or timely process the application received by ODOC from the PFI as well as denial of the application by ODOC.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Name of Business: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Part 2: Signature of PFI Representative**

I, the undersigned, acknowledge that on behalf of the PFI I have read these rules and that the PFI agrees to follow these rules as applicable. Furthermore, that I am a witness to the signature of the business representative for the applicant business.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Name of PFI: \_\_\_\_\_

Address of PFI: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

E-mail address: \_\_\_\_\_