

PENOBSCOT NATION

BUSINESS INTERRUPTION GRANT PROGRAM GUIDELINES

Introduction. Section 5001 of Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), established the Coronavirus Relief Fund (“Fund”) and appropriated \$150 billion to the Fund, reserving \$8 billion for payments to Tribal Governments. The Penobscot Nation received Coronavirus Relief Fund monies from the federal government to help respond to the COVID-19 public health emergency. **The Nation leadership has set aside a portion of its Coronavirus Relief Fund monies to allow for business interruption grants not exceeding a maximum amount of \$5,000 per Business Entity, as that term is defined herein.** Interested businesses should complete this application form. Applications must be received by November 1, 2021. Applications received after that date will not be considered.

Eligible Businesses. For purposes of this Business Interruption Grant Program, an eligible “Business Entity” shall mean any business that generates revenue through legal commercial business operations and in which an enrolled Penobscot Nation citizen owns more than fifty percent (50%) interest, without regard to the form that such business entity takes; for the avoidance of doubt, Business Entity includes business that are corporations, limited liability companies, authorities, Doing Business As, sole proprietorship.

Additionally, only Business Entities that suffer a Business Interruption shall be eligible for a grant under this Program. For purposes of this Program, a “Business Interruption” means either (a) the full or partial suspension of the Business Entity’s business operations because of a federal, state, local or tribal government order limiting commerce or group meetings due to the COVID-19 virus, (b) the voluntary closure or reduced operations of a business during the COVID-19 public health emergency to mitigate the spread of the COVID-19 virus, or (c) a decline in gross receipts during the second or third quarter in 2020 that is equal to or greater than fifty percent (50%) of the gross receipts from the same quarter in 2019.

Eligible Costs. Federal law places restrictions on how Coronavirus Relief Funds can be used by the Penobscot Nation. The Penobscot Nation Business Interruption Grant Program is based on the guidance and Frequently Asked Questions document issued by the U.S. Department of Treasury as of July 28, 2020.¹ A description of eligible costs are provided below.

The CARES Act and Treasury guidance state that payments from the Fund may only be used to cover costs that –

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Diseases 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and

¹ See *Coronavirus Relief Fund Guidance for State, Territorial, Local and Tribal Governments*, updated as of June 30, 2020, (“Guidance”) and *Coronavirus Relief Fund Frequently Asked Questions*, updated as of July 8, 2020. Documents are located at home.treasury.gov/policy-issues/cares/state-and-local-governments.

3. were incurred during the period that begins on October 1, 2020, and ends on September 30, 2020. **For purposes of this Program, the Penobscot Nation will only consider eligible costs incurred between October 1, 2020 and September 30, 2021.**

Based on the above, Fund monies can only be used to cover costs that are *necessary expenditures* that have been incurred *due to* the public health emergency with respect to the Coronavirus Disease 2019 (“COVID-19”). Treasury guidance and Frequently Asked Questions document clarify that the requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency.

The Treasury guidance indicates that a covered expense for Tribal Governments includes “[e]xpenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.” Treasury’s Frequently Asked Questions document clarifies that governments can help small business who suffer business interruption beyond “required closures.” The Penobscot Nation leadership has determined that the many small businesses owned by Nation citizens are vital to local economy and critical to providing jobs and supporting families. Additionally, many of these small businesses have suffered business interruption due to required closures, but also due to voluntary closures or reduced operations to mitigate the spread of the COVID-19 virus, or due to a decline in gross receipts during the second or third quarters of 2020 resulting from decreased customer demand because of the COVID-19 public health emergency.

Based on Treasury’s guidance and Frequently Asked Questions document, the Penobscot Nation has determined that the following costs are eligible business expenditures for which a Business Entity may seek assistance through the Penobscot Nation Business Interruption Grant Program:

- Costs associated with informing the public and customers that the business has re-opened or resumed full operations, or steps that the business is taking to ensure a safe customer experience after a business interruption occurs (long-term marketing is ineligible);
- Payroll costs for retained employees, including benefit and payroll taxes;
- Principal and interest payments due on any debt obligations;
- Utilities;
- Unemployment insurance costs;
- Costs for materials and/or equipment purchased prior to a business interruption that could not be used due to a subsequent business interruption; or
- Any other cost that was incurred during a Business Interruption or as a result of a Business Interruption for which the Business Entity was unable to generate sufficient revenue to cover.

Although a broad range of costs are eligible business expenditures, the Treasury guidance and Frequently Asked Questions document expressly prohibit Fund monies to be used to replace lost revenue.

Any business interruption grant provided by the Penobscot Nation must be used for the COVID-19 related costs specifically described in the application or approved by the Nation as being a valid COVID-19-related business interruption expenditure.

Documentation Requirements. The Treasury Office of Inspector General has advised that governments will be subject to rigorous audits and oversight in how they use their Fund monies. Additionally, recipients of Fund monies must retain documentation and records verifying the eligible use of such monies for a period of five years. As such, by accepting a Business Interruption Grant from this Program, the Business Entity is certifying that it will retain relevant documents for five years or provide such documentation to the Penobscot Nation with a note indicating that any documentation is for purposes of this Program.