

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan

Chief Executive Officer

**DATE:** November 18, 2024

**SUBJECT:** Small Business Liquor License Grant (SBLLG)

**Summary**

The Members are asked to approve:

1. Creation of the Small Business Liquor License Grant (SBLLG) - a pilot product under the Main Street Recovery Fund that will offer a grant to reimburse eligible NJ small businesses 50% up to $100,000 of the cost of a recently purchased NJ inactive plenary retail consumption liquor license.
2. Utilization of funding from the Main Street Recovery Fund, as follows:
* $10 million to capitalize the SBLLG pilot product from the Main Street Recovery Fund.
* 5% of funding or up to $500,000 to be used by NJEDA to cover administrative expenses.
* 40% of the program pool or $4 million will be reserved for applicant businesses located in eligible NJ Opportunity Zone census tracts. This funding will be set aside for 2 years from the date the application is made available to the public. Any portion of the reserve that is not used by that date will be made available to all applicants.
1. Delegation of authority to the Chief Executive Officer to approve non-discretionary eligible applications for the SBLLG in accordance with the terms set forth in this memo and attached program specifications.

**Background**

On January 7, 2021, Governor Phil Murphy signed the New Jersey Economic Recovery Act of 2020 (ERA) into law. The ERA presents a strong recovery and reform package that addresses the ongoing economic impacts of the COVID-19 pandemic and position New Jersey to build a stronger and fairer economy that invests in innovation, in our communities, and in our small businesses the right way, with the protections and oversight taxpayers deserve. Tax incentives and other investment tools are critical to economic development, and when used correctly they can drive transformative change that uplifts communities and creates new opportunities for everyone. On July 7, 2021, Governor Murphy signed P.L. 2021 c.160, further improving the programs established under the New Jersey Economic Recovery Act of 2020.

One of the 15+ programs created by the ERA is the Main Street Recovery Finance Program, a small business support program under which financial assistance products have been created with a common purpose of supporting the growth and success of small businesses in New Jersey. As of today, $200 million has been appropriated for the Main Street Recovery Fund, which funds several individual products.

On August 11, 2021, the Members approved special adopted rules creating the Main Street Recovery Finance Program (N.J.A.C. 19:31E-1.1 et seq). These rules established two initial products under the Main Street Program – the Small Business Lease Assistance Grant and the Small Business Improvement Grant. The Members later approved the creation of additional products under Main Street including the Main Street Micro Business Loan, Main Street Lenders Grant, the Small Business E-commerce Program, and the Main Street Acquisition Support Grant. Over the course of approving each of these individual products, Members were advised that requests to create additional products under the Main Street Recovery Fund may be forthcoming.

This memo requests the creation another pilot product under the Main Street Recovery Fund – the Small Business Liquor License Grant (SBLLG). This product aligns with new legislation passed by Governor Murphy P.L. 2023, c.290 to support the reactivation of approximately 1,365 inactive liquor licenses. NJEDA has created this product to support existing eligible small businesses that acquire an inactive plenary retail consumption license to expand their current operation and service offerings.

The Plenary Retail Consumption Liquor License must have been purchased by the applicant within 12 months prior to the SBLLG application date. The license must also have been an inactive license, a determination made by the NJ Division of Alcoholic Beverage Control Commission (ABC), that the grantee will now activate. NJEDA will reimburse grant recipient for 50% of the license price or up to $100,000 whichever is less. This grant is intended to support existing businesses not new businesses just starting-up.

This product aligns with other grant products established under the Main Street Recovery Fund by the NJEDA, which provides direct funding to small and micro businesses in the form of lease assistance and business improvement grants, as well as low-interest, forgivable loans, E-commerce technical assistance support, and support for closing costs on recently purchased commercial properties in which a small business operates from. With this new pilot product, the Authority is seeking to support NJ service oriented small business owners that are looking to grow and expand their existing operations by acquiring a liquor license for their New Jersey commercial property from which they will be operating. This grant will support only working capital needs which will result in a higher chance of survival and longevity through this post-COVID recovery time period.

**Product Details**

The SBLLG will offer a reimbursement of 50% of the license purchase price not to exceed $100,000, to a New Jersey based small business that has been operating for a minimum of 12 months from a commercial location. The license must be a Plenary Retail Consumption Liquor License that has not been actively used in connection with the operation of the licensed premises, a determination that is made by ABC. The license may be purchased through a municipal transfer pursuant to NJSA 33:1-24.3a or from a private owner. The purchase of the inactive liquor license will help small businesses expand their operation and service offerings at their current commercial location. The application for the grant must be dated no later than one year from the date of the liquor license to be eligible.

The small business would go through the process required by their local municipality to purchase and obtain the inactive plenary retail consumption liquor license. This license and support documentation will be provided to NJEDA to ensure this transaction has taken place and is finalized. Once finalized the eligible NJ small business can pursue a grant from NJEDA.

The NJEDA will require that the license remains active by the grantee for a minimum of five years. If the grantee no longer operates their business with the liquor license before the end of the five-year compliance period, the grant recipient will be required to repay a prorated portion of the grant. Repayment of the grant will be prorated based on the years of compliance, with 20% reductions for each full year the applicant is compliant with the terms of the grant.

**Application Process**

This pilot product will be available online at njeda.gov for three years from the date applications are made available to the public, or until the total funding pool is exhausted (whichever is sooner). Applications will be reviewed on a rolling basis. Staff will market and promote this product to the community during our normal outreach efforts.

**Eligible Applicants**

Eligible applicants or co-applicants for this product must also meet the following requirements to be eligible under this grant product:

* Must own and possess a previously inactive Plenary Retail Consumption Liquor License at time of application and have a purchase date within 12 months prior to application. NJ Division of Alcoholic Beverage Control (ABC) determines if the license was previously inactive.
* Applicants that have transferred the license between entities with common ownership are not eligible.
* Applicant or other related entities must be in compliance with ABC statute and regulations and status will be determined by ABC.
* Applicant business must rent or own and operate from a NJ based commercial facility and own the liquor license, or, in the alternative, a separate holding company may own the liquor license for applicant’s exclusive use.
* Landlords and real estate holding entities are not eligible. Grant is only for occupying small business owners.
* Applicant must be open and operating for at least 12 months prior to application and must provide the most recent federal tax filing required to be filed for their business showing sales per gross receipts.
* Non-profit and for-profit entities that meet SBA’s definition of small business based on NAICS industry classification at time of application. NAICS code on most recent tax filing will be used to make eligibility determination.
* Applicants must provide a current Tax Clearance Certificate from the NJ Division of Taxation prior to receiving NJEDA approval.
* Applicant entity is required to provide a WR30 reflecting employment for the quarter prior to their application date.
* Applicants must be in substantial good standing prior to approval with the NJ Department of Labor, and NJ Department of Environmental Protection, with all decisions of substantial good standing at the discretion of those entities.
* Applicant or other related entities must be in good standing with the ABC Act and status will be determined by ABC.
* Applicant must not be in default with any other EDA or State assistance and certify to same.
* Applicant must either own a New Jersey Inactive Plenary Retail Consumption Liquor License at time of application or, if applicant does not own the license, it must be owned by a holding company that is the co-applicant for the grant.
* Only the purchase of an New Jersey Inactive Plenary Retail Consumption Liquor License is eligible; no other costs associated with that purchase are eligible.
* Applicants are eligible to receive a Small Business Lease Grant, Small Business Improvement Grant and a Small Business Inactive Plenary Retail Consumption Liquor License Grant for the same location.
* Applicants are limited to one award per EIN. Applicants operating from multiple locations under a single EIN would be limited to one application for the life of the program.
* This product applies only to purchases of inactive Class C Plenary Retail Consumption Licenses. All other liquor licenses, including but not limited to special licenses for shopping malls and strip malls issued pursuant to NJSA 33:1-12.18 (6)(a) and licenses issued for breweries, distilleries, winemakers, cideries, meaderies, club facilities, sporting facilities, concessionaires, hotels/motels, blenders, brokers or those related to warehousing, distribution, transportation or wholesale are not eligible.

**Completed Applications**

As per Main Street rules (NJAC 19:31-5.4), applicants must provide a completed application which includes:

* The name of the applicant;
* The contact information of the applicant;
* The organizational type of the applicant;
* The principal products and services and three-digit North American Industry Classification System number;
* The New Jersey tax identification number;
* The Federal tax identification number;
* The most recent three Federal tax returns filed (if applicable);
* The total number of full-time and part-time employees of the applicant, in New Jersey at the time of application, and three months prior to the submission of the application;
* The comprehensive list of the applicant's locations in New Jersey and the function performed at each location;
* A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2;
* Submission of a current tax clearance certificate, pursuant to P.L. 2007, c. 101;
* WR 30, payroll reports, or equivalent documentation for the quarter preceding submission of application;
* A certification under the penalty of perjury from the applicant, or an authorized agent of the applicant, that the information provided in the application is true; and
* Any other necessary and relevant information as determined by the Authority for any product or for a specific application. Which may include:
	+ A copy of the transferred license.
* The Authority will confirm with the New Jersey Division of Alcoholic Beverage Control, New Jersey Department of Labor and Workforce Development, Department of Environmental Protection, and the Department of the Treasury that the applicant is in compliance by being in substantial good standing with the statutes, rules, and other enforceable standards of the respective department, or, if a compliance issue exists, the eligible business has entered into an agreement with the respective department that includes a practical corrective action plan, as applicable.

While the Authority anticipates that most applications will provide a complete set of required information needed to evaluate the application, staff will follow up with applicants if additional information or documentation is needed.

Entities whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 10 business days). Appropriate staff will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will recommend a final administrative decision. For final appeal decisions on non-discretionary reasons, delegated authority is requested.

**Grant Awards**

Eligible applicants can receive up to $100,000 per EIN for one license at a single eligible location.

The grant amount will be determined by utilizing a purchase and sale agreement to determine the purchase price of the license. Settlement and closing costs will not be included.

**Terms and Conditions**

As part of the application, the business must certify that they will activate the liquor license and operate from the property identified in their application continuously and for a five-year compliance period that begins after execution of the grant agreement with the NJEDA. Repayment of the grant will be prorated based on the years of the compliance, with 20% reductions for each full year of compliance.

In case of a grant default, the five-year compliance period and the term of the deed restriction will be extended for as long as the default remains outstanding and uncured. At the sole discretion of the NJEDA, grantees may be able to cure a default by restoring its good standing and satisfying the remaining (extended) compliance period, or by repaying all or a prorated amount of the grant based on the years of compliance.

Also due to the statute, grantees must enforce minimum wage requirements for their employees. This means that each full-time or part-time employee employed by the applicant be paid not less than $15.00 per hour or 120 percent of the minimum wage fixed under subsection (a) of section 5 of P.L. 1966, c. 113 (N.J.S.A. 34:11-56a4), whichever is higher, except that the small business shall pay not less than 120 percent of the minimum wage to an employee who customarily and regularly receives gratuities or tips for the entire compliance period.

Awardees will certify annually that they are operating out of the property and meeting the wage requirements per section 5 of P.L. 1966, c. 113 (N.J.S.A. 34:11-56a4) if they have employees.

**Diversity & Inclusion**

The Main Street Recovery Finance Program statute suggests the Authority to complete a disparity study for the purposes of establishing policies, practices, protocols, and, if appropriate, minimum percentages of Main Street Recovery Finance Program funding to be set aside for eligible small businesses and microbusinesses that are minority-owned business enterprises or women-owned business enterprises. The Authority currently does not yet have the ability to reserve a portion of funding specifically for minority or women-owned businesses. Since the Authority is consistently exceeding the 30 percentiles in serving women and minority owned businesses, staff proposes that Authority reserves 40% of the program pool or $4 million for applicants located in eligible New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract). This Opportunity Zone reserve will be held for two years from the date the application is made available to the public; any portion of the reserve that is not used by that date will be made available to all applicants. This approach is consistent with all the other products under the Main Street Recovery Fund. NJEDA staff will still diligently ensure outreach is effective and supports all New Jersey business owners.

**There are 715 census tracks that were eligible to be Opportunity Zones in New Jersey. Setting aside, for two years, a portion of available funding of 40% to support entities located in these census tracts further reinforces the State’s commitment to helping to ensure all Opportunity Zone eligible tracts in New Jersey receive opportunities for investment that are equitable and inclusive.**

**Fees & Administrative Expenses**

Staff is also requesting up to 5% of total program funding up to $500,000 to cover the Authority’s administrative costs. This amount would be in addition to the amount requested for this product and would be funded from the Main Street Recovery Fund.

Eligible applicants will be required to pay a $500 approval fee once they are approved for their grant. After they have paid their fee, they will then execute their grant agreement, and the grant will be disbursed.

**Delegated Authority**

Finally, the Members are requested to approve delegation to the Authority’s CEO to designate staff to approve non-discretionary individual applications for the Small Business Liquor License Grant in accordance with the terms set forth in the attached product specifications.

**Recommendation**

The Members are asked to approve:

1. Creation of the Small Business License Grant product, a pilot product under the Main Street Recovery Fund that will offer a grant of 50% up to $100,000 to reimburse eligible NJ small businesses that purchased a NJ inactive plenary retail consumption liquor license.
2. Utilization of funding from the Main Street Recovery Fund, as follows:
* $10 million to capitalize the Small Business Liquor License Grant pilot product.
* Up to $500,000 to support the Authority’s administrative costs for the Small Business Liquor License Grant product.
1. Delegation of authority to the Chief Executive Officer to approve non-discretionary eligible applications for the Small Business Liquor License Grant in accordance with the terms set forth in this memo and attached program specifications.

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 Tim Sullivan

Chief Executive Officer

Prepared by: Christina Fuentes and Maggie Peters

Attachments

Exhibit A – Product Specifications