

Board Agenda Item
June 8, 2021

ACTION - 6

Authorization to Establish the PIVOT Business Recovery Grant Program

ISSUE:

Board of Supervisors' authorization to create a grant program to assist small businesses and certain nonprofits experiencing negative economic impacts of the COVID-19 pandemic. The program would be funded through an allocation of the Coronavirus State and Local Fiscal Recovery Funds (Fiscal Recovery Funds) provided through the Federal American Rescue Plan Act (ARPA) under the authority to support small businesses and non-profits. Approval is also requested for the County Executive to administer the grant program.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors (Board): establish the PIVOT Business Recovery Grant Program (PIVOT Program) that responds to the negative economic impacts of the COVID-19 public health emergency on small businesses and non-profits; approve the expenditure of \$25,000,000 of ARPA Fiscal Recovery Funds; and authorize the County Executive to administer the PIVOT Program to meet program objectives.

TIMING:

Board action is requested on June 8, 2021, in order to establish the grant program by July 1, 2021.

BACKGROUND:

On November 18, 2020, the Board of Supervisors was briefed the Economic Recovery Framework (Recovery Framework) prepared by staff and consultants. The Recovery Framework includes data and analysis demonstrating the sectors and business types that have been most impacted by the COVID-19 pandemic. Following that briefing, Chairman McKay and Supervisors Foust and Storck submitted a Board Matter on February 9, 2021, directing staff to develop a targeted relief and recovery program to support Fairfax County businesses and non-profits identified in the Recovery Framework as having been disproportionately impacted by COVID-19 and the related public health mitigation measures. Consistent with this direction, on March 16, 2021, staff briefed the Board on specific recommendations regarding the Recovery

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Framework including creating programs providing targeted assistance to small businesses most impacted by the COVID-19 pandemic.

The American Rescue Plan Act allocated State and Local Fiscal Recovery Funds to the County. Among other uses, the County may use its Fiscal Recovery Funds to respond to the “negative economic impacts” of the COVID-19 pandemic “including assistance to . . . small businesses, and nonprofits . . .” The U.S. Department of the Treasury is charged with oversight of the Fiscal Recovery Funds. In its Interim Final Rule, Treasury identifies as permitted assistance grants that respond to the negative economic impacts of the COVID-19 public health emergency experienced by small businesses and nonprofit organizations. Unlike the Coronavirus Relief Fund, the Fiscal Recovery Funds defines both “small business” and “nonprofit.” As a result, a small business “has no more than 500 employees” (or the applicable size standard established by the Small Business Administration) and is “small business concern” as defined by the Small Business Act. While a non-profit means only those tax-exempt organizations described in 501(c)(3) of the Internal Revenue Code. Lastly, under ARPA, the covered period for the Fiscal Recovery Funds begins March 3, 2021.

In line with these requirements and the Board’s direction, the purpose of the Pivot Program is to help address and mitigate the negative economic impacts experienced by small businesses and nonprofits from the COVID-19 public health emergency. This will be accomplished through grants to impacted, eligible small businesses and non-profits identified through documented research and analysis. The specific small business and nonprofit sectors are:

- Food Services
- Lodging (hotels)
- Retail, Services, and Amusements
- Art Organizations, Museums, Historical Sites

The Recovery Framework confirmed that the estimated 48,200 jobs lost in Fairfax County through December, 2020 were heavily concentrated in food service, hospitality, and retail sectors. Collectively, the accommodation and food services, retail, other services, and arts and entertainment sectors accounted for approximately 50 percent of total job losses in Fairfax County in 2020. The Recovery Framework also highlighted that Customer-facing businesses – such as retailers, hospitality, and restaurants – are the most vulnerable to closures and losses in revenues as a result of the pandemic. In addition, small business revenue declined 86 percent for leisure and hospitality sector in 2020 in the DC region. The Virginia Restaurant, Lodging and Travel Association reported that 77 percent of all restaurant operators reported lower sales in January 2021 than January 2020.

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According to the global hospitality data firm STR, Virginia lodging businesses experienced a 2020 monthly average 50.5 percent decrease compared to 2019—totaling more than \$2.2 billion in lost revenue. Northern Virginia is the only region in Virginia that continues to decline and as of March 2021 has the lowest revenue per room in the Commonwealth.

Analysis conducted by the National Endowment of the Arts find that, “Arts and culture have experienced significant economic setbacks from COVID-19”. The visual or performing arts were affected directly and deeply. Revenues declined nearly 54% in quarter 3 of 2020 compared to 2019. ArtsFairfax reported that, as of January 2021, artists and arts organization cancelled 98 percent of events and 43 percent of survey respondents noted that inability to make payroll is their major financial obstacle.

The ARPA Supplementary Information states, “the pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses...play a key role in supporting the overall economic recovery as they are responsible for two thirds of net new jobs”. As such, within the Food Services, Retail, and Art Organizations and Historical Sites sectors, staff recommends targeting the assistance to those small businesses by annual (or gross) receipts. Full details for the proposed Pivot Program structure and award guidelines are identified in the Proposed PIVOT Business Recovery Grant Program Parameters (Attachment 1).

Desired outcomes of the PIVOT Program include:

1. Help the most negatively impacted small businesses and nonprofit organizations remain in business and retain employees.
2. Sustain business sectors which employ disproportionately higher number of low-income and minority workers.
3. Assist impacted small businesses and nonprofits by mitigating financial hardship, funding implementation of COVID-19 prevention or mitigation tactics, or both.

Based upon the demand received for previous local, state, and federal small business assistance programs (including the RISE grant program, ReBUILD VA, and the SBA Restaurant Revitalization Fund) the PIVOT Program at the recommended funding amount of \$25,000,000 could be oversubscribed. If so, all eligible hotels will be awarded first given the dramatic economic impacts the hospitality industry has incurred. It is recommended that remaining funds be awarded through a random lottery.

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Staff continues to evaluate the most effective means of supporting small businesses through economic recovery. No later than forty-five (45) days after the establishment of the Pivot Program, staff will update the Board on the program. The Board may increase this fund at any time in the future.

Staff is also exploring additional opportunities to respond to the COVID-19 public health emergency and its negative economic impacts by providing assistance, including grants, to targeted organizations and populations. These organizations and populations may include, community-based organizations providing safety net services, programs promoting healthy childhood environments, and strengthening communities. More information on these assistance programs (including a funding request, proposed eligibility criteria, and assistance amounts) will be provided to the Board in the near future.

FISCAL IMPACT:

Funding for the Grant Program is recommended from the Federal ARPA funding that has been provided to the County.

It is anticipated that an appropriation of \$25,000,000 will be used from Coronavirus State and Local Fiscal Recovery Funds provided through the Federal ARPA to fund the PIVOT Program. Funds to administer the PIVOT Program would come from ARPA. Program administration costs authorizes are limited to no more than 1.6% of the total authorized PIVOT Program funding amount.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed PIVOT Business Recovery Grant Program Parameters

STAFF:

Rachel Flynn, Deputy County Executive
Joe Mondoro, Chief Financial Officer
Christina Jackson, Director, Department of Management and Budget
Rebecca Moudry, Director, Department of Economic Initiatives

ASSIGNED COUNSEL:

Patricia McCay, Senior Assistant County Attorney

Fairfax County PIVOT Business Recovery Grant Program “Grant Program Guidelines”

Grant Awards

The PIVOT Business Recovery Grant Program (the PIVOT Program) will provide grants to eligible and selected awardees. To be eligible, an applicant must be small business or non-profit (as defined in 31 C.F.R. § 35.3) operating in the following sectors, which have suffered by the most negative economic impact:

1. Food Services, which includes but is not limited to restaurants and other eating places, breweries, wineries and distilleries, and special food services like caterers or independent food trucks.
2. Lodging (Hotels), which includes establishments primarily engaged in providing short-term lodging in facilities known as hotels and motels
3. Retail, Services, and Amusements, which include but are not limited to:
 - a. Stores engaged in retailing merchandise without transformation for personal or household consumption at a fixed point-of-sale location.
 - b. Offices or stores primarily engaged in providing personal or health services.
 - c. Establishments that operate facilities that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.
4. Art Organizations, Museums, and Historical Sites, which include:
 - a. Establishments involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing.
 - b. Establishments that preserve and exhibit objects and sites of historical or cultural interest.

Eligibility Requirements and Use of Funds

Grant funds are for qualifying small business and non-profit organizations to (1) address and mitigate financial hardship; (2) implement COVID-19 prevention or mitigation tactics; (3) or both.

Minimum small business eligibility for grant awards across all identified sectors includes that the small business:

1. Must be established and have one or more location(s), including the principal place of business, in Fairfax County. Fairfax County includes the Towns of Herndon, Vienna, and Clifton. *The City of Falls Church and City of Fairfax are separate jurisdictions from Fairfax County and are excluded.*
2. Have a valid Business, Professional and Occupational Licenses (BPOL) issued prior to March 1, 2020.
3. Must meet the U.S. Department of the Treasury definition of “small business.” See 31 C.F.R. § 35.3. A small business is a business concern or other organization that: (a) has no more than 500 employees, or if applicable, size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates (SBA Table of size standards at <https://www.sba.gov/document/support--table-size-standards>); and is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632)

Minimum non-profit eligibility for grant awards across all identified sectors includes that the non-profit:

1. Must be established and have one or more location(s), including the principal place of business, in Fairfax County. Fairfax County includes the Towns of Herndon, Vienna, and Clifton. *The City of Falls Church and City of Fairfax are separate jurisdictions from Fairfax County and are excluded.*
2. Must meet the U.S. Department of the Treasury definition of "non-profit." See 31 C.F.R. § 35.3. A non-profit is a non-profit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Food Services and Retail, Services and Amusements minimum eligibility requirements for grant award include:

1. Demonstrate a minimum of 15% decline in gross revenue in 2020 compared to 2019 gross revenue levels.
2. Must have a "bricks and mortar" commercial location in Fairfax County as demonstrated by a commercial lease agreement or equivalent (independent food trucks are excluded from this requirement).
3. Food Services must demonstrate health certificate (including independent food trucks).
4. Annual receipts or gross revenue less than \$3.5M (per establishment)

Arts Organizations, Museums, and Historical Sites minimum eligibility requirements for grant award include:

1. Demonstrate a minimum of 15% decline in gross revenue in 2020 compared to 2019 gross revenue levels
2. Must be an establishment involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing (categories include music, dance, theatre, visual arts, media arts, and literary arts) and/or an establishment that preserves and exhibits objects and sites of historical or cultural interest including arts-based and non-arts-based museums.

Hotels:

1. Minimum 10 rooms

Applicants must present documentation to demonstrate:

1. In good standing and operational prior to March 1, 2020.
2. Have eligible reimbursable costs of up to 100% of the grant amount requested. Said costs must have been incurred after March 3, 2021 and must be demonstrated by receipts/ invoices.
3. Other documentation as required for tracking and reporting requirements, including, not limited to, number of employees.

Ineligible for Award

The following businesses and organizations are ineligible for award:

1. Businesses legally structured as a Sole Proprietorship if owners received unemployment benefits in 2020 in excess of six months.

2. Businesses legally structured as a Sole Proprietorship, that are unable to demonstrate 51% or more of annual 2020 income from eligible business type.
3. Food Trucks owned or operated by a restaurant.
4. Breweries, wineries, or distilleries that operate in a manufacturing only capacity.
5. Franchise businesses, except for those franchises which are locally owned and operated (hotels excluded).
6. Hotels that have received funding from Fairfax County for the emergency shelter program
7. Businesses and organizations that have that received funding or notice of award for the SBA Restaurant Revitalization Fund or the SBA Shuttered Venue Operator Grant at the time of PIVOT Program grant application (Phase 1) and at the time of document submission and review (Phase 2).
8. For Arts Organizations, Museum and Historical Sites: Non-Arts entities, meaning organizations whose primary purpose is other than producing or presenting the arts. Arts programs (under a non-arts parent organization) are ineligible for funding.

To direct the County’s limited resources and financial assistance to small businesses in ways that will best accomplish the purpose of the ARPA Fiscal Recovery Funds and the PIVOT Program, the County reserves the right to prioritize that financial assistance. As a result, a business or organization may also be deemed ineligible for award if it is an ineligible business identified in 13 C.F.R. § 120.110. Nonprofits that meet the definition in 31 C.F.R. § 35.3 remain eligible under the PIVOT Program.

Grants to eligible small businesses and non-profit organizations will be awarded as follows:

Sector	Business Size	Grant Level
Food Services	A: Annual receipts or gross revenue less than \$3.5M (per establishment)	A: \$18,000 per establishment
	B: Independent Food Trucks	B: \$1,500
Lodging (Hotels)	Minimum 10 rooms	\$400 per room
Retail, Services, and Amusements	Annual receipts or gross revenue less than \$3.5M (per establishment)	\$12,000
Arts Organizations, Museums, and Historical Sites	A: Arts org. annual receipts or gross revenue greater than \$100,000	A: \$10,000
	B: Arts org. annual receipts or gross revenue less than \$100,000	B: \$5,000
	C: Museums and historical Sites	C: \$10,000

Use Limitations

Grant funds can be used to:

- Mitigate financial hardship (e.g. declines in revenues or impacts of periods of business closure). This includes:
 - Supporting payroll and benefits costs,

- Costs to retain employees,
- Mortgage,
- Rent,
- Utilities costs, or
- Other business critical operating costs as determined by the County
- Implement COVID-19 prevention or mitigation tactics, such as:
 - Physical changes to enable social distance,
 - Enhanced cleaning efforts,
 - Barriers or partitions

Funding must be used to sustain or evolve the grant awardee business. No grant funds can be used to pay debts to close the business or start a new business. All grant awardees will be expected to enter into a grant agreement with Fairfax County and/or the program administrator. A condition of the grant will be that the grantee agrees in good faith to maintain the business in Fairfax County through December 31, 2022, or potentially be subject to repayment of the grant.

There is a limit of one PIVOT Program grant per individual small business or non-profit.

Eligible expenses cannot include the same expenses that have been covered under another federal, local or state COVID-19 program (including PPP, EIDL, RISE grant, RebuildVA).

Examples of Documentation Requirements

Applicants for the PIVOT Program will be asked to provide documentation to support the eligibility and award requirements. These are likely to include:

- 2019 and 2020 Tax Return or Form 990/990-EZ/990-N.
2020 Year End profit-and-loss statement, or similar statement of organizational financial standing
- Current profit-and-loss statement or similar document showing financial status, as revised due to COVID-19 impacts to revenue
- Current Fairfax County BPOL license. *Not applicable to certain non-profit applicants.*
- Articles of Incorporation, articles of organization, or similar evidence of legal formation of the business. *Not applicable to businesses organized as a Sole Proprietorship.*
- IRS Letter of Determination *(for non-profits)*

Based upon PIVOT Program funding source, it is anticipated that grantees will be asked to provide documentation of eligible reimbursable costs (incurred after March 3, 2021) of up to 100% of the grant amount requested. In addition, grantees will be required to provide additional documentation or any certifications as may be deemed necessary to meet other requirements.