

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(AN UNINCORPORATED TRIBE)

ORDINANCE OF THE TRIBAL COUNCIL OF THE OGLALA SIOUX TRIBE AMENDING ORDINANCE NO. 20-71 WHICH ESTABLISHED THE OGLALA SIOUX TRIBE CARES ACT RELIEF SMALL BUSINESS GRANT PROGRAM FOR TRIBALLY-OWNED AND TRIBAL MEMBER-OWNED SMALL BUSINESS ENTERPRISES THAT HAVE EXPERIENCED BUSINESS INTERRUPTION, LOST REVENUE, AND/OR INCREASED COSTS AS A RESULT OF THE COVID-19 PUBLIC HEALTH EMERGENCY.

WHEREAS, the Oglala Sioux Tribe adopted its Constitution and By-Laws by referendum vote on December 14, 1935, in accordance with Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 5123), and under Article III of the Constitution, the Oglala Sioux Tribal Council is the governing body of the Oglala Sioux Tribe, and

WHEREAS, Article IV, Section 1(f) of the Constitution of the Oglala Sioux Tribe authorizes the Oglala Sioux Tribal Council to manage all economic affairs and enterprises of the Oglala Sioux Tribe, and Article IV, Section 1(w) authorizes the Oglala Sioux Tribal Council to adopt laws protecting and promoting the health and general welfare of the Oglala Sioux Tribe and its membership, and

WHEREAS, on March 10, 2020, the President of the Oglala Sioux Tribe declared a State of Emergency for the Pine Ridge Indian Reservation, and thereafter the Tribal Council affirmed the President's declaration of a State of Emergency due to the coronavirus disease 2019 ("COVID-19") global pandemic, and

WHEREAS, the Tribal Council has enacted several Ordinances and Resolutions to address the COVID-19 pandemic and to take public health precautions for prevention and containment of COVID-19 on the Reservation, including but not limited to a shelter-in-place ordinance, curfew ordinance, and public health checkpoint ordinance, and

WHEREAS, Congress enacted several laws responding to the COVID-19 pandemic, including the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Pub. L. 116-136 (Mar. 27, 2020), which established a Coronavirus Relief Fund ("CRF") and appropriated \$150 billion to it for FY 2020, of which \$8 billion is reserved for Tribal governments, and

WHEREAS, the CARES Act states that a Tribal government may use CRF payments:

to cover only those costs of the ... Tribal government ... that-

(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);

(2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the ... government; and

(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

42 U.S.C. § 801(d), and

WHEREAS, on April 22, 2020, the U.S. Department of the Treasury issued "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments" (hereafter "Treasury Guidance"), and the Treasury Guidance was updated several times, most recently on September 2, 2020, and

WHEREAS, on May 4, 2020, the Treasury Department issued "Coronavirus Relief Fund Frequently Asked Questions" (hereafter "Treasury FAQs") for recipients of payments from the CRF, and the Treasury FAQs were updated several times, most recently on October 19, 2020, and

WHEREAS, the Treasury Guidance states that CRF monies can be used for "second-order effects of the emergency such as by providing economic support for those suffering from employment or business interruptions due to COVID-19-related business closures," and

WHEREAS, the Treasury Guidance states that eligible expenses include "[e]xpenses associated with the provision of economic support" to businesses, including but not limited to, "[e]xpenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures", and

WHEREAS, the Treasury FAQs state that: "Fund payments may be used for economic support [even] in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency," and

WHEREAS, the Treasury FAQs give recipient tribes discretion in identifying what businesses should be provided with financial assistance to reimburse business interruption costs due to COVID-19 and in tailoring a grant program to financially assist such businesses, and

WHEREAS, business enterprises on the Reservation have experienced significant business interruption and lost revenue from required closures and other increased costs due to the COVID-19 public health emergency, and

WHEREAS, in recognition of such business interruption, lost revenue and increased costs, the Tribal Council enacted Ordinance No. 20-71 (Nov. 4, 2020), to establish the Oglala Sioux Tribe CARES Act Relief Small Business Grant Program (hereafter "Grant Program") to provide financial assistance to Oglala Sioux Tribe-owned and Tribal member-owned small business enterprises that have experienced business interruption, lost revenue, and/or increased costs as a result of the COVID-19 public health emergency, and

WHEREAS, the Tribal Council enacts this Ordinance to amend the Grant Program and to extend the deadline for submission of applications to December 23, 2020, and

WHEREAS, the Tribal Council has determined that the Grant Program, as amended by this Ordinance, complies with the requirements of the CARES Act and the guidance issued by the Treasury Department as of the date of this Ordinance, now

THEREFORE, BE IT ORDAINED, the Tribal Council of the Oglala Sioux Tribe hereby amends the Oglala Sioux Tribe CARES Act Relief Small Business Grant Program ("Grant Program") established by Ordinance No. 20-71 (Nov. 4, 2020), as follows:

1. The Tribal Council will continue to fund the Grant Program with One Million Dollars (\$1,000,000.00) from its Coronavirus Relief Fund payment.
2. Eligible small business enterprises shall include: Oglala Sioux Tribe wholly-owned business enterprises located on the Reservation with fewer than Five Hundred (500) full-time employees and Oglala Sioux tribal-member-owned business enterprises located on the Reservation with fewer than twenty-five (25) full-time employees and who hold a valid and current Tribal business license, or in the case of ranching businesses a valid range unit grazing permit, and have experienced business interruption, lost revenue and/or increased expenses due to the COVID-19 public health emergency. Business enterprises include both for-profit and non-profit entities.
3. No individual grant from the Grant Program shall exceed the following limits:

- a. Five Hundred Thousand Dollars (\$500,000.00) for Tribally-owned small business enterprises;
 - b. Ten Thousand Dollars (\$10,000.00) for tribal-member-owned small business enterprises;
 - c. No grantee shall receive more than a total of One Million Dollars (\$1,000,000.00) from this Grant Program; and
 - d. The Tribe is not required to award the full amount requested by an applicant.
4. Any request for financial assistance from the Grant Program shall be made by completing a written application on a form that shall be substantially the same as the document included here as Exhibit A, for submission to the Tribal Treasurer not later than Wednesday, December 23, 2020, provided that applicants that already submitted applications under Ordinance No. 20-71 will not be required to submit new applications using Exhibit A attached to this Ordinance. Previously submitted applications that have not already been approved will be processed in accordance with the requirements of this Ordinance, provided that applicants may be required to enter into the new certifications and agreements in Exhibit A prior to issuance of grant payments.
5. The Tribal Treasurer, Comptroller, and OST Consultant Casey Pedersen are authorized to review the applications for the Grant Program to ensure they meet the requirements of the Grant Program as described in Exhibit A and to recommend approval or denial of each application to the Finance Committee and the Finance Committee is authorized to approve applications that meet the requirements of the Grant Program as described in Exhibit A.
6. Upon approval of a Grant Program application by the Finance Committee, the Tribal Treasurer is authorized to issue funds from the Grant Program as follows:
- a. For grants up to, but not exceeding, Ten Thousand Dollars (\$10,000.00), the Treasurer may issue Grant Program monies directly to the applicant; and
 - b. For grants greater than Ten Thousand Dollars (\$10,000.00), Grant Program monies shall flow through

the Oglala Sioux Tribe Accounts Payable voucher system,
as follows:

- i. The Oglala Sioux Tribe Accounts Payable shall provide grantees their Grant Program monies for payroll expenses on a reimbursable basis provided the grantee submits its time reports and employee check stubs to the Oglala Sioux Tribe Accounts Payable within five business (5) days after the applicant makes its payroll; and
- ii. The Oglala Sioux Tribe Accounts Payable shall pay the grantees' vendors directly for business necessities including, but not limited to equipment, supplies, utilities, and rent, provided the grantee submits its vendor invoices to the Oglala Sioux Tribe Accounts Payable for review, approval and payment within five business (5) days after receiving such invoices; and
- iii. The Oglala Sioux Tribe Accounts Payable is hereby authorized to make the payments called for under this Ordinance.

7. The Grant Program shall automatically end on December 30, 2020, and no applicants shall be funded after this date, and the Grant Program may end prior to December 30, 2020, if all funds are expended, and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately and shall supersede, repeal, and replace all prior, inconsistent laws of the Oglala Sioux Tribe.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, the undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe hereby certify that this ORDINANCE was adopted by a vote of 14 for; 0 against; 0 abstaining; and 0 not voting, during a SPECIAL Session on the 15TH day of DECEMBER, 2020.

ORDINANCE NO. 20-82
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STACY L. TWO LANCE
Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:



KEVIN KILLER
President
Oglala Sioux Tribe



OGLALA SIOUX TRIBE
CARES ACT RELIEF SMALL BUSINESS GRANT PROGRAM
APPLICATION AND AGREEMENT

Business Entity Name: _____

Business Address: _____

Owner's Name: _____

Owner's Address: _____

Type of entity: _____ Phone # _____

Enrollment Number: _____ Email _____

Number of Full-Time Employees: _____

Funding Amount Requested: _____

By submitting this application an agreement, the applicant agrees that:

- The applicant will use any grant it receives to continue the operation of the business.
- The applicant will retain the original versions of any documents submitted as part of the application for five (5) years.
- The Tribe may audit the business, upon reasonable notice, in order to verify: 1) any information the applicant provided during the application; 2) the business's eligibility for the grant; and 3) the business's use of the grant following receipt.
- In the event the Tribe later determines the information applicant provided in the application was inaccurate, or the applicant was ineligible for the grant, or the applicant's use of the grant following receipt was contrary to this Agreement, the applicant agrees to repay the grant to the Tribe in full.

Signature: _____

Date: _____

Title: _____

**OGLALA SIOUX TRIBE
CARES ACT RELIEF SMALL BUSINESS GRANT PROGRAM**

The applicant certifies in good faith, subject to pains and penalties of perjury and other punishments under the law, that the following statements are true and correct by initialing next to each line:

- ___ The applicant is a business entity wholly-owned by the Oglala Sioux Tribe or wholly-owned by an enrolled member of the Oglala Sioux Tribe.

- ___ The applicant is a business entity whose primary place of business is on the Pine Ridge Indian Reservation.

- ___ If Tribal member-owned, the applicant has a current and valid Tribal business license.

- ___ The applicant certifies that it has experienced business interruption due to the COVID-19 public health emergency.

- ___ The applicant certifies that it has experienced lost revenue and/or increased costs due to the COVID-19 public health emergency.

- ___ The applicant certifies that the information provided in this application is true and correct and understands that is subject to audit by the Tribe and by the U.S. Department of the Treasury for a five-year period. It will retain all documents related to this Grant Program for a period of five (5) years and will provide the Treasurer and FAO access to such documents, including to review and copy them, upon request.

- ___ The applicant certifies that no funding being requested will be used for reimbursement or purchase of any activities related to lobbying.

Signature: _____

Date: _____

Title: _____

For office use only.

Received by: _____

Date: _____

Completed Packet: _____

Notice provided to applicant: _____

Approved/Denied by Treasurer/FAO: _____

If approved, amount: _____

Submitted to Finance Committee: _____

Legal Dept: _____

Approved/Denied by Finance Committee: _____

Final Approved Amount: _____

Other Comments:

**OGLALA SIOUX TRIBE
CARES ACT RELIEF SMALL BUSINESS GRANT PROGRAM**

Grant amounts for small business gaming enterprises will be based on the following calculations :

(1) 2019 Net Revenue from Operations. Enter amounts below and attach supporting documents.

(a) 2019 income (March 1, 2019, to December 1, 2019): _____

(b) 2019 expenses (March 1, 2019, to December 1, 2019): _____

(c) 2019 Net Revenue (subtract line 1(b) from line 1(a)): _____

(2) 2020 Net Revenue from Operations. Enter amounts below and attach supporting documents.

(a) 2020 income (March 1, 2020, to December 1, 2020): _____

(b) 2020 expenses (March 1, 2020, to December 1, 2020): _____

(c) 2020 Net Revenue (subtract line 2(b) from line 2(a)): _____

(3) Other Federal COVID-19 Aid. List and state the total amount of any and all other COVID-19-related Federal funding (e.g., Paycheck Protection Program Loan) received by the business entity from any Federal, Tribal, or State government or agency. This will be used to ensure costs sought to be covered by this grant request have not already been funded by a federal grant. Attach a separate schedule if necessary.

(a) Paycheck Protection Program Loan: _____

(b) Other (if applicable): _____

(c) Other (if applicable): _____

(d) Amount from Separate Schedule (if applicable): _____

(e) Total (add lines 1(a), 1(b), 1(c), and 1(d)): _____

- Grant Calculation. To determine eligible grant amount, subtract 2020 Net Revenue from Operations (line 2(c)) and Other Federal COVID-19 Aid (line 3(e)) from 2019 Net Revenue from Operations (line 1(c)).

**TOTAL AMOUNT REQUESTED:	
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****IMPORTANT**** This number should match the "Funding Amount Requested" entry on page 1.