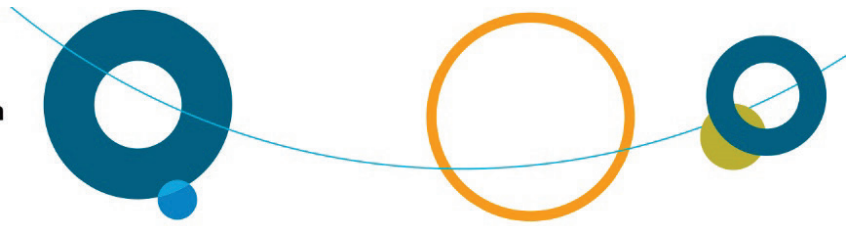




**Small Business
Development Corporation**



Program Guidelines and Terms and Conditions

**Small Business Assistance Grant
December 2021**

Version 2: 31 March 2022

Program Guidelines

Overview

The **Small Business Assistance Grant – December 2021** is available to small businesses which were directly financially impacted by the Chief Health Officer's COVID Restrictions (Directions) over the festive season, including those businesses operating within the hospitality sector, the music events industry or the creative and performing arts sectors.

Eligible employing businesses will receive \$1,130 for each impacted day (up to a maximum of \$12,500), while eligible non-employing small businesses will receive \$400 for each impacted day (up to a maximum of \$4,400).

The final grant payment available will be based upon the number of days that your business was impacted over this period, as demonstrated in your application and supporting evidence.

Separate grant programs for nightclubs and major music events and festivals are being offered through the Department of Local Government, Sport and Cultural Industries [here](#).

Eligibility criteria

To be eligible for the Small Business Assistance Grant - December 2021 the business must meet **all** criteria listed below, at the start of the **restricted trading period**¹:

1. Be located within the Perth, Rottnest or Peel regions.
2. Hold a valid and active ABN for the period covered by their application.
3. Be currently trading in Western Australia and:
 - a. Have an annual turnover of more than \$50,000, excluding GST.
 - b. Have an Australia-wide annual payroll of less than \$4 million.
4. Operate in the hospitality sector, the music events industry or the creative and performing arts sectors that were directly impacted by the restrictions, including:
 - hospitality sector, including
 - a pub, tavern or hotel, (not a nightclub),
 - a restaurant or café.
 - hospitality or event related
 - food and beverage, including catering services,
 - rental or hiring services (for example, toilets, staging, audio visual, etc.),
 - creative and performing arts (for example, musicians).
 - event organiser / manager (not eligible for the Getting the Show Back on the Road program).

¹ **Restricted trading period** is from 6:00pm on 23 December 2021 to 6:00am on 4 January 2022 (from 6:00pm on 24 December 2021 for hospitality venues).

5. Be able to demonstrate a reduction in turnover of at least 30 per cent compared to the same period the prior year that is directly linked to the restricted trading conditions.
 - a. an alternative 'reasonable comparative period' in the previous year may be used for comparison if the businesses did not operate in the equivalent period or comparison with the equivalent period provides an inaccurate financial representation of the business.
6. Verify their identity using [myGovID](#).
7. Agree to the program's Terms and Conditions. **Please read the Terms and Conditions carefully as the applicant will be legally bound by them** once they have submitted their grant application.

Government of Western Australia Small Business Assistance Grant – December 2021, Terms and Conditions

1. These Terms and Conditions and Their Administration

- 1.1. These Terms and Conditions apply to the Program.
- 1.2. By submitting its application, and again by accepting any Grant, the Applicant agrees to comply with these Terms and Conditions.
- 1.3. In consideration of the Applicant agreeing to comply with these Terms and Conditions, the State will, on and subject to these Terms and Conditions, receive and consider the Application.
- 1.4. The SBDC is assisting the Government of Western Australia with management of the Program and:
 - a) any rights of the State under these Terms and Conditions may be exercised by or through the SBDC;
 - b) anything or matter which may be done by the State in connection with the Program (including, without limitation, corresponding with an Applicant, undertaking assessment of an Application or undertaking an audit) may be done by the State through the SBDC; and
 - c) All representations, warranties, undertakings, consents, acknowledgments and agreements given by the Applicant in favor of the State are also given in favor of the SBDC.

Anything or matter which may be done by the State or by SBDC may be done by an authorised officer of the State or of the SBDC (as the case may be).

2. The State's Rights

- 2.1. The State reserves the right for any reason, at any time and from time to time, to (in whole or in part) cancel the Program or to (in whole or in part) vary, supplement, supersede or replace the Program, the Program Guidelines or these Terms and Conditions.
- 2.2. In addition to any right reserved under clause 2.1, the State reserves the right for

any reason, at any time and from time to time, to vary the Program, the Program Guidelines or these Terms and Conditions for the purposes of inserting additional general categories of primary business activity described in the Eligibility Criteria of the Program Guidelines.

2.3. If the State exercises its rights under clause 2.1, then:

- a) the State will advise each affected Applicant that it has done so; and
- b) the Applicant will not have any recourse against any State Party whatsoever including, without limitation, with respect to claims for any costs or expenses incurred by the Applicant in applying for a Grant through the Program.

2.4. The State is under no obligation to approve any Application for provision of a Grant and may reject any Application at the State's absolute discretion, including without limitation:

- a) if an Applicant fails to satisfy the eligibility criteria for, or its Application fails to comply with the requirements of, the Program; or
- b) if an Application is incomplete or contains information or representations that are false or misleading; or
- c) if the State decides to cancel the Program, or exercise any other right referred to in clause 2.1.

2.5. After an Application is received, the State may request additional information from the Applicant in relation to the content of its Application for the purpose of clarifying or assessing the Application. The Applicant must comply with such a request within 5 working days of the date on which the request is made, or prior to the Application Closing Time, whichever is sooner.

2.6. At any time during the Audit Period, the State may, at its absolute discretion:

- a) conduct random or specific audits of or in respect of any or all of the information provided by the Applicant, which audits may involve the State contacting an Affected Business Participant or other third parties and exercising other rights under clause 8, including but not limited to contacting third party systems for the purpose of identity validation;
- b) consider any information in any form which is provided to the State by a third party or which otherwise comes to the knowledge of the State, notwithstanding how that information is provided or otherwise comes to the knowledge of the State; and
- c) request additional information from the Applicant if the State reasonably believes that any of the information provided, or a representation made, by the Applicant may be incomplete, false or misleading,

and if the State determines in its absolute discretion that:

- d) the Applicant did not at the time of making of the Application, or at the time of payment of a Grant, satisfy the Eligibility Criteria for a Grant under the Program;
- e) there is insufficient evidence to verify that the Applicant satisfied the Eligibility Criteria for a Grant under the Program at the time of making of

the Application or at the time of payment of a Grant;

- f) the Applicant made or provided any false, incomplete, misleading or deceptive representation, statement or information; or
 - g) the Applicant otherwise received the Grant in error, the State may in writing require the Applicant to repay any Grant or part thereof paid to the Applicant within 10 working days and the Applicant must pay to the State the amount of the Grant or thereof together with all costs incurred by the State arising from, or in connection with, recovery of that amount. The obligation for an Applicant to repay a Grant to the State represents a debt due and payable by the Applicant to the State.
- 2.7. The State reserves the right to enter into an alternative payment arrangement with an Applicant to the State's reasonable satisfaction for the repayment of any debt due and payable under clause 2.6.
- 2.8. If the Applicant receives a Grant, the Applicant must, for the duration of the Audit Period, retain records to verify that it satisfied the eligibility criteria for the Grant under the Program at the time of making of the Application and at the time of payment of the Grant.
- 2.9. To the fullest extent permitted by law, all implied terms and conditions are excluded from these Terms and Conditions.

3. Application and the Applicant

- 3.1. In order for its Application to be assessed by the State, the Applicant must submit a complete Application electronically through the SBDC Website on or before the Application Closing Time.
- 3.2. Receipt of the Application will be determined by the date and time shown that the complete Application is electronically submitted.
- 3.3. Lodgment of electronic files may take time and the Applicant must make their own assessment of the time required for full transmission of their Application.
- 3.4. If the electronic copy of the Application contains a virus then, notwithstanding any disclaimer made by the Applicant in respect of viruses, the Applicant must pay to the SBDC all costs incurred by the SBDC arising from, or in connection with, the virus.
- 3.5. No State Party will be responsible in any way for any loss, damage or corruption of the electronic copy of the Application.
- 3.6. If the electronic copy of the Application becomes corrupted, illegible or incomplete as a result of transmission, storage, encryption or decryption, then the State or the SBDC may request the Applicant to provide another copy of the Application either electronically or in hard copy or both. If the State or SBDC requests the provision of another copy of the Application, then the Applicant must:
- a) provide the copy in the form or forms requested within the period specified by the State or SBDC (as the case may be); and
 - b) warrant that the copy is a true copy of the Application which was electronically submitted by the Applicant and that no changes to the Application have been made after the initial attempted electronic submission.

- 3.7. The Applicant must inform SBDC of any changes in the status or circumstances of the Application between the time of its submission and its assessment, by email to grants@smallbusiness.wa.gov.au or as otherwise specified in the Program Guidelines.
- 3.8. The Applicant, in submitting an Application, warrants and represents to the State that all information and representations (in whatever form) given to a State Party under, as part of or in connection with the Program or the Application are true and correct, complete and up-to-date, and in no way misleading or deceptive.
- 3.9. Where the Applicant consists of more than one person, a representation or warranty given by, and the obligations and liabilities of the Applicant under these Terms and Conditions apply to and bind each of those persons jointly and severally.
- 3.10. All communications by or on behalf of the Applicant with the State and the SBDC are to be provided by the Nominated Applicant and a communication by or on behalf of the State or the SBDC with the Nominated Applicant is deemed to be a communication with all persons constituting the Applicant.

4. Assessment

- 4.1. The State will assess each Application received before the Application Closing Time against the eligibility criteria identified in the Program Guidelines and make an assessment as to whether:
 - a) to request further information or supporting evidence of any matter;
 - b) to offer a Grant to the Applicant (and if so, the State will determine the timing of that Grant); or
 - c) to reject the Application.
- 4.2. During the assessment process, the State will review the Application and supporting documents provided by the Applicant to determine whether on the face of it they are complete, correct and accurate. No State Party accepts any responsibility for ensuring that the Application and supporting documents provided by the Applicant are complete, correct and accurate and no State Party is obliged to request further information.
- 4.3. The State reserves the right to re-assess or revoke the offer of a Grant at any time if the State reasonably considers that the Application and supporting documents provided by the Applicant are not complete or accurate.
- 4.4. Without limiting clauses 2.4, 2.6, 4.1 or 4.3, the State reserves the right, at its discretion, to offer a Grant to an Applicant even if the Applicant does not satisfy one or more eligibility criteria for a Grant under the Program. The State may request additional information from an Applicant in connection with exercising this right. In the event that the State offers a Grant to an Applicant in these circumstances, only those eligibility criteria for the Program which are satisfied by the Applicant will for the purposes of clause 2.6(c) and clause 2.6(d) be the eligibility criteria which apply to any Grant subsequently paid to the Applicant.

5. Withdrawal of Application

The Applicant may withdraw their Application at any time by email to grants@smallbusiness.wa.gov.au

6. Disclosure of Information

- 6.1. The Applicant warrants that all relevant third parties have consented to the disclosure of information relating to them in respect of the Application.
- 6.2. The Applicant agrees and acknowledges by submitting its Application that the State and the SBDC may disclose the Application and any information or document provided by the Applicant in relation to the Application as deemed necessary or desirable by the State or the SBDC, including without limitation:
 - a) to the extent necessary to assess and verify the matters represented in the Application, including disclosing to any government agency;
 - b) pursuant to the requirements of any law, including the *Freedom of Information Act 1992 (WA)*;
 - c) under a court order;
 - d) upon request by a Minister, Parliament or any committee of Parliament or by way of the Minister responsible for the Program or the SBDC disclosing to Parliament as deemed necessary or desirable by the Minister.
- 6.3. The Applicant agrees and acknowledges that the powers and responsibilities of the Auditor General for the State of Western Australia under the *Financial Management Act 2006* and the *Auditor General Act 2006* are not affected in any way by the Application or these Terms and Conditions.
- 6.4. The Applicant, for the purpose of the State determining eligibility of the Applicant for a Grant under the Program, conducting an audit or otherwise exercising the State's rights or functions in connection with the Program, consents to the Western Australian Commissioner of State Revenue or their delegate(s) disclosing their tax information in connection with the Applicant's liability for or other status in connection with pay roll tax upon request to the State in accordance with the *Taxation Administration Act 2003 (WA)* and for the purposes of section 114(2)(c) of that Act, the Applicant authorises each person subject to a duty of confidentiality under section 114 of that Act to so disclose information and material in respect of its tax information as contemplated by this clause.
- 6.5. By submitting an Application, the Applicant releases each State Party from all liability whatsoever for any loss, injury, damage, liability, costs or expense resulting from the disclosure of its Application, or any other information or document, confidential or otherwise, submitted in respect of its Application, under this clause.

7. Review

- 7.1. Where an Applicant is dissatisfied with a decision to reject an Application, the Applicant can, no later than 30 days after the decision to reject is notified to the Applicant, apply for review of that decision to the Small Business Commissioner by email to grants@smallbusiness.wa.gov.au

In requesting a review the applicant is required to provide information supporting why they believe the decision to refuse their application is incorrect. In the event of such a review, the review will be undertaken by an Officer independent of the original decision maker. The Small Business Commissioner may, after review, make a recommendation to the Director General of the Department of Local Government, Sport and Cultural Industries (DLGSC) with respect to the Application, but will not be obliged to do so.

7.2. The State, acting through the Director General of DLGSC may, but will not be obliged to, consider a recommendation of the Small Business Commissioner referred to in clause 7.1. A decision of the Director General of DLGSC will be final and binding on the Applicant.

8. Audit

8.1. Without limiting clause 2.6, the State reserves the right to audit any matter or thing relating to the Application or a Grant at any time during the Audit Period. This right includes without limitation the right to contact any Affected Business Participant directly to seek information and the right to require any record or information from the Applicant. The applicant agrees to provide and records or documents no later than ten working days from the date of a written request.

8.2. The Applicant must allow all persons who are nominated by the State to conduct an audit under these Terms and Conditions to:

- a) have full access to all records and premises in the control or possession of the Applicant for the purpose of carrying out the audit; and
- b) make and take copies of any record in the control or possession of the Applicant relating in any way to the Application or the Grant,

and the Applicant must provide all reasonable assistance to those persons while they are conducting an audit.

8.3. Notwithstanding any non-statutory obligation of confidence owed by an Affected Business Participant to the Applicant, the Applicant authorises each Affected Business Participant to disclose to the State or the SBDC, upon request by the State or the SBDC for the purposes of audit in connection with the Application or a Grant, any information in connection with the Applicant, the Application, or the relevant Affected Business.

9. Intellectual Property

The Applicant consents to the reproduction of the Application and any information or document submitted in respect of the Application for the purposes of administration of the Program, and represents that it has obtained all copyright and intellectual property permissions as required to do so (if any).

10. No Bribe, Inducement or Offer of Employment

10.1. The Applicant must not directly or indirectly approach or communicate with any officer or employee of the State or the SBDC having any connection or involvement with the Program, with respect to an offer of employment or availability of employment with the Applicant or any related entity.

10.2. The Applicant must not directly or indirectly offer a bribe, gift or inducement to any officer or employee of the State or the SBDC in connection with the Program.

11. Laws

11.1. These Terms and Conditions are governed by the laws of Western Australia.

11.2. Each Applicant must comply with all laws in respect of their Application and the Program.

12. Exclusion of Liability

To the extent permitted by law, the Applicant:

- a) will have no right of recovery against any State Party in respect of any matter or thing in relation to the Program, including without limitation, any aspect of the assessment or review of the Application or the disclosure of its Application and information or documents; and
- b) releases each State Party from all liability for any loss, injury, damage, liability, costs or expense arising in connection with any matter or thing in relation to the Program.

13. Severability

- 13.1. Any provision of, or the application of any provision of, these Terms and Conditions which is illegal, void or unenforceable, is ineffective to the extent of the illegality, voidance or unenforceability.
- 13.2. If any part of these Terms and Conditions is or becomes illegal, void or unenforceable, that part is or will be severed from these Terms and Conditions so that all parts that are not, or do not become, illegal, void or unenforceable remain in full force and effect and are unaffected by that severance.

14. Definitions

In these Terms and Conditions:

Affected Business means the business in respect of which the Application is made.

Affected Business Participant means a person other than the Applicant involved in directing the conduct, or undertaking administration or operation, of the Affected Business.

Applicant means the party applying for a Grant under the Program pursuant to the relevant Application and includes the party after a Grant has been made to the party.

Application means an application for a Grant under the Program.

Application Closing Time means 4:00pm Tuesday 31 May 2022 (AWST).

Audit includes investigate, examine, inspect and review.

Audit Period means, for an Applicant, the period commencing on the date on which its Application is received in accordance with clause 3.2 and ending:

- a) where a Grant is paid to the Applicant, on the day which is 12 months after the date on which the Grant is paid; and
- b) where its Application is rejected, on the day which is 3 months after the date on which the Applicant is notified that its Application is rejected.

DLGSC means the Department of Local Government, Sport and Cultural Industries.

Eligibility Criteria means the criteria described at points 1 to 7 of the Program Guidelines.

Grant means a financial assistance payment which is available, payable or paid (as the case may be) in response to a successful Application under the Program.

Nominated Applicant means the person named as the nominated applicant or the primary contact person in the Application.

Program means the financial assistance program provided by the Government of Western Australia to small businesses relevantly impacted by the restricted trading conditions imposed by the Chief Health Officer implemented from 6:00pm 23 December 2021 to 6:00am 4 January 2022, entitled the "Small Business Assistance Grant Program, December 2021", and associated processes, and requirements and benefits described in both the Program Guidelines and these Terms and Conditions.

Program Guidelines means the document entitled "Program Guidelines and Terms and Conditions – Small Business Assistance Grant - December 2021".

Record means a record or information of any kind, including originals and copies of all accounts, financial statements, books, files, reports, records, correspondence, documents and other materials, however such records and information are held, stored or recorded.

SBDC means the Small Business Development Corporation established under the *Small Business Development Corporation Act 1983 (WA)*.

Small Business Commissioner means the Small Business Commissioner appointed under the *Small Business Development Corporation Act 1983 (WA)*.

State means the Crown in right of the State of Western Australia including any department, agency or instrumentality of the State of Western Australia and any Minister whether body corporate or otherwise, acting through DLGSC, the SBDC or any other government agency.

State Party means the State and each of their respective officers and employees.

Terms and Conditions means these terms and conditions.