

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## **BC Resolution # 06-10-20-C COVID-19 Response - Oneida Nation Small Business Assistance Program**

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Nation and the community have been negatively impacted by the COVID-19 pandemic as positive cases increase and as the economy is slowly recovering; and
- WHEREAS,** the Oneida Business Committee directed the Nation's gaming operations be closed to the public resulting in \$0 revenues supporting its operations to help stop the spread of the virus, and the COVID-19 Core Decision Making Team (*COVID-19 Team*) issued *Safer at Home Declarations* which closed non-essential businesses much the same as occurred across the State of Wisconsin and the United States to slow the spread of the pandemic; and
- WHEREAS,** the COVID-19 Team recently determined that slowly reopening businesses within the Oneida Nation Reservation (*Reservation*) through the *Open for Business* amendment to the *Updated Safer at Home* declaration; and
- WHEREAS,** the closure of small businesses within the Oneida Reservation for over two months as a result of a public health state or emergency has resulted in business losses, loss of employment wages, and possibly makes it difficult for the small business to re-open operations; and
- WHEREAS,** the Oneida Business Committee believes that a vital small business community within the Reservation is vital to the economic vitality of the Oneida Nation and its members; and
- WHEREAS,** the federal government adopted the CARES Act which included COVID-19 Relief Funding to tribal governments; and
- WHEREAS,** the Oneida Business Committee believes that adoption of a small business assistance program utilizing the COVID-19 Relief Funding can provide the support to small businesses that will allow their recovery and support of the Reservation economy;

**NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee adopts the Oneida Nation Small Business Assistance Program to be implemented on June 15, 2020, as follows.

*Name:* Oneida Nation Small Business Assistance Program ("ONSBAP").

*Purpose:* ONSBAP will assist Oneida member-owned businesses within or near the Oneida Nation Reservation impacted by the COVID-19 emergency after March 1, 2020 and before June 30, 2020, until liquidation of the ONSBAP, or the ONSBAP is terminated through government action, whichever comes first.

*Funding:* Eligible business entities may qualify for ONSBAP grant from the CRF allocated to the Oneida Nation for this purpose.

*Eligible Business:* A business will be eligible for ONSBAP grant if it is: a) majority (51%) owned by enrolled member(s) of the Oneida Nation; b) business is located within the Oneida Nation Reservation or on tribal-owned land operated by 1822 Land and Development Company of Oneida, LLC; c) business can certify it has been affected by the COVID-19 emergency and suffered a business interruption due to the same; d) the business is organized pursuant to state business formation laws or, if not organized thereby, has filed a Schedule C (Form 1040) as part of its 2018 and/or 2019 federal tax filing; e) business was in operation prior to March 1, 2020; and f) business certifies it has and may produce, if requested, monthly profit and loss statements for the year prior to March 1, 2020 or for the months it has been in business if less than a year.

*Affected by COVID-19 Emergency:* A business shall be presumed affected by the COVID-19 emergency if: a) it closed for business pursuant to a COVID-19 related government order from the Oneida Nation or State of Wisconsin; b) it suffered reduced revenues of 5% or more after March 1, 2020 if permitted to remain open for business after promulgation of the of the aforementioned government orders; or c) the business was forced to close or reduce its hours of operation or provision of services due to i) employees unable to work due to COVID-19 related matters (personally inflicted or required to care for a family member inflicted by COVID-19), ii) revenues curtailed due to aforementioned government orders (e.g.: a restaurant limited to only curbside service), or iii) loss of contracts for provision services due to customer/client impacted by COVID-19 emergency.

*Amount of Grant:* The grant amount may be determined by the following:

1. Payroll costs: a) payroll costs including salary or wages of employees hired prior to March 1, 2020 and still employed or vacated position filled pursuant to ONSBAP grant; b) tips (if customary in the line of business and based on employer records or good faith employer estimates of tips) of employees hired prior to March 1, 2020 and still employed or vacated position filled pursuant to ONSBAP grant, c) benefits including health care coverage and retirement contributions in effect prior to March 1, 2020 or reinstated after vacated position filled; and d) tax assessed on compensation of employees hired prior to March 1, 2020 and still employed or vacated position filled pursuant to ONSBAP grant. Business owner may seek ONSBAP grant for aforementioned costs incurred after March 1, 2020 and until June 30, 2020.
2. Payroll cost limitations: a) Business owners must verify employee salaries, wages, and benefits prior to March 1, 2020; b) employees must have been employed prior to March 1, 2020 or position filled pursuant to ONSBAP grant; c) compensation shall be capped at \$50,000 of an individual employee receiving an annual salary in excess of \$50,000; and d) independent contractors or consultants contracted with the business shall not be included as a part of the grant amount. Business owner may seek ONSBAP grant for payroll costs incurred after March 1, 2020 and until June 30, 2020.
3. Other business-related costs: a) utility payments for service agreements incurred before March 1, 2020; b) rent or interest on mortgage for place of business incurred before March 1, 2020. Business owner may seek ONSBAP grant for these costs incurred after March 1, 2020 and until June 30, 2020.

4. Post-COVID-19 emergency marketing and development: Twenty percent (20%) of items nos. 1 and 3 above. The funds allocation in this enumerated section may be used for marketing costs, business development costs, and expenses associated with acquiring personal protection equipment, disinfectants, signage, and other material or items to safeguard business operations and customers.
5. The amount of a grant may be limited to less than the sum of nos. 1, 3, and 4 above at the discretion of the Nation to ensure all eligible businesses have an opportunity to partake in the ONSBAP. ONSBAP grant funds may be used only for reimbursable expenses within the above categories.
6. A business owner may apply for and receive an ONSBAP grant only once. The Nation reserves the right to expand the program to permit additional rounds of application if the member-owned small businesses exhibit a continuous need related to the COVID-19 emergency and the ONSBAP has sufficient funds for additional grants.
7. The maximum ONSBAP grant will not exceed \$30,000.00. The grant request must be substantiated by the requirements contained within this document and any associated laws or procedures. All reimbursements to the applicant pursuant to the ONSBAP must be supported by documentation of the expenses, costs, or loss.
8. Applicants must file for the ONSBAP no later than July 31, 2020. Applicant must seek the final reimbursement from the ONSBAP grant no later than September 30, 2020.
9. Business owner will retain necessary documentation substantiating the request and use of funds. Any grant funds not used by Eligible Business shall be returned to the Oneida Nation by September 30, 2020.
10. The Oneida Nation reserves the right to audit the use of funds within two years of the awarding of the ONSBAP grant. The Oneida Nation reserves the right to clawback all or a portion of the ONSBAP grant made to a business if the grant funds were used for purposes other than those listed in nos. 1, 3, and 4 above.

*Documentation and Use of Documents:* Business owner should be prepared to document adherence to the above requirements prior to approval of the grant application. Requested and produced documentation will become a part of the record associated with the ONSBAP grant and may be used by the Nation to satisfy the Nation's internal audits, federal data requests, federal audits, or other legal federal request associated with CRF.

*Management of ONSBAP Grant:* Bay Bank will administer the ONSBAP grants. Bay Bank, in its role as administrator, will 1) develop the application, 2) accept applications, 3) determine eligibility of the business, 4) determine amounts of the grant, and 5) other required acts to compile and complete a grant application. Bay Bank will inform the Nation of its recommendation after review of the grant application.

The Nation, or its delegate, will make the final determination on the award the grant to the Eligible Business upon receipt of the recommendation from Bay Bank. The Nation will transfer the necessary funds to Bay Bank so it may award the grant to the Eligible Business on behalf of the Nation. Bay Bank will pay out the Nation-approved grant award to the Eligible Business only after Bay Bank receives the CRF monies from the Nation to make the aforementioned payment. The following is reiterated for clarity now and in later review: 1) the Nation makes the final determination on the award of the grant to the Eligible Business, and 2) the Nation will transfer CRF monies to Bay Bank for each instance of a grant award payment; the Nation will not transfer to Bay Bank a tranche of funds to be managed or otherwise controlled by Bay Bank.

Bay Bank will create an agreement executed by Bay Bank and Eligible Business that substantially meets the requirements herein. Bay Bank will administer the grant and collect required documentation from Eligible Business for such administration. Bay Bank shall administer the ONSBAP in accordance with the Nation's laws, federal, and applicable state laws. Bay Bank shall ensure its distribution and administration conform to the CARES Act.

**BE IT FUTHER RESOLVED**, the Oneida Business Committee directs the Treasurer to set up an Oneida Nation account at BayBank in the amount of \$1.2 million as funding for the program.

**BE IT FURTHER RESOLVED**, the Oneida Business Committee directs the Treasurer to deliver to BayBank \$30,000 as an administrative fee to offset the cost of administering the Oneida Nation Small Business Program.

**BE IT FINALLY RESOLVED**, the signature of an officer of Bay Bank upon a copy of this resolution shall be considered acceptance by Bay Bank of the terms of this program.

**CERTIFICATION**

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 10<sup>th</sup> day of June, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 6 members for, 0 members against, and 2 members not voting\*; and that said resolution has not been rescinded or amended in any way.

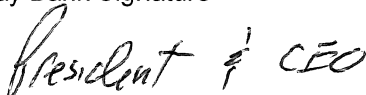


Lisa Summers, Secretary  
Oneida Business Committee

\*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."



Bay Bank Signature



Bay Bank Title



Date Signed