The Small Business Administration Shuttered Venue Operators Grant Program (SVOG)

Frequently Asked Questions as of April 8, 2021

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

Shuttered Venue Operators Grant (SVOG) Program

The Shuttered Venue Operators Grant program was established by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, signed into law on December 27, 2020. The program includes over $16 billion in grants to shuttered venues, to be administered by the SBA's Office of Disaster Assistance.

- Eligible applicants may qualify for SVO Grants equal to 45% of their gross earned revenue, with the maximum amount available for a single grant award of $10 million.
- $2 billion is reserved for eligible applications with up to 50 full-time employees.

When can I apply for a grant?

- SBA is in the process of setting up the grant program and is expected to begin accepting applications on April 8, 2021 via the Shuttered Venue Operators Grant (sba.gov) portal. Those who have suffered the greatest economic loss will be the first applications processed under the following schedule:
  - First Priority (1st 14 days of grant awards): Entities that suffered a 90% or greater revenue loss between April 2020 through December 2020 due to the COVID-19 pandemic.
  - Second Priority (Next 14 days of grant awards): Entities that suffered a 70% or greater revenue loss between April 2020 through December 2020 due to the COVID-19 pandemic.
  - Third Priority (Beginning 28 days after First & Second Priority Awards are made): Entities that suffered a 25% or greater earned revenue loss between one quarter of 2019 and the corresponding quarter of 2020.
  - Supplemental Funding (Available after all Priority Periods have passed): Recipients of First, Second, and Third Priority round awards who suffered a 70% or greater revenue loss for the most recent calendar quarter (as of 04-01-21 or later)

Who is eligible and can apply for a grant?

- Eligible entities may be live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators, and talent representatives, per the Economic Aid Act. Additionally, entities of these types owned by state or local governments (for example, museums or historic homes) are eligible to apply if the governmentally-owned entity also acts solely as a venue operator, museum, etc. and not also include other types of entities.
- Your principal business activity must be the organization, promotion, management, or hosting of live concerts, comedy shows, theatrical productions or other events by performing artists.
- You must have been in operation by February 29, 2020.

When does a business have to have been established to be eligible to apply for an SVOG?

- The business must have been in operation as of February 29, 2020.

How long will this program last?

- The program will last until the funding in exhausted.

Is an entity that applied for and received a Paycheck Protection Program loan in 2020 eligible to apply for an SVOG?

- Yes.

Can an entity apply for a PPP loan after they receive an SVOG?

- No. Once they receive an SVOG award, they can no longer apply for the PPP.

What disqualifies an entity from SVOG eligibility?

- The following types of circumstances would preclude an otherwise eligible firm from an SVOG:
  - It does not have a place of business located in the United States, does not operate primarily within the U.S., and does not make a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.
  - It was not in operation as of Feb. 29, 2020.
  - It applied and/or received for a PPP loan on or after Dec. 27, 2020
  - It is a publicly traded corporation, or is majority owned and controlled by a publicly traded corporation.
  - It presents live performances or sells products or services of a prurient sexual nature.
  - More than 10% of its 2019 gross revenue came from the federal government (not counting disaster assistance)
  - It owns or operates venues, theatres, museums or talent agencies in more than one country, owns or operates venues, theatres, museums or talent agencies in more than ten states, AND it had more than 500 employees as of Feb. 29, 2020.

Can a mobile, portable, or touring facility be a qualifying venue for an SVOG?

- Yes, any venue, including traveling tent shows such as circuses and festivals, that meets all the space related requirements in the Economic Aid Act (e.g., defined performance and audience spaces, lighting rig, etc.) will be considered an SVOG-qualifying venue. If a particular venue cannot meet these requirements, it is not eligible to apply for an SVOG.

Is a wedding/event venue eligible to apply?

- No. Per the Economic Aid Act and specific eligibility criteria applying to Live Venue Operators, wedding venue operators would likely fail to meet multiple requirements (for example: sale of tickets, promotion of events to the public, defined audience and performing space, lighting rig, sound mixing equipment, employment of sound engineers, stage managers box office managers, etc.).

Is a restaurant/tavern/bar that features live music eligible to apply?

- No, if the principal line of business is restaurant/tavern/bar operation rather than live venue operation, the business would not be eligible to apply for an SVOG.

What criteria will the SBA apply when determining whether a particular form of live entertainment constitutes a performing arts event for an SVOG?

- The SBA believes “performing arts” as related to the SVOG program means events such as musical concerts, comedy shows, theatrical productions, dance performances, or other live renderings of similarly artistic works.

Is a theatrical producer that stages performances in multiple venues eligible to apply?

- Yes. Provided the venues a theatrical producer uses meet the qualifications listed in the Economic Aid Act (e.g., defined performance and audience spaces, sound mixing equipment, a lighting rig, etc.) there is no limit upon the number of venues at which a producer may host events.

How a grant funds allowed to be used?

- Grant funds may be used for:
  - Payroll costs
  - Rent payments
  - Utility payments
  - Scheduled mortgage payments (not including prepayment of principal)
  - Scheduled debt payments (not including prepayment of principal) on any indebtedness incurred in the ordinary course of business prior to 02-15-20)
  - Worker protection expenditures

- Payments to independent contractors (not to exceed $100K in annual compensation per contractor)
- Other ordinary and necessary business expenses, including maintenance costs
- Administrative costs (incl. fees and licensing)
- State and local taxes and fees
- Operating leases in effect as of 02-15-20
- Insurance payments
- Advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production. (May not be primary use of funds.)

How a grant funds NOT allowed to be used?

- Grantees may not use award funds to:
  - Buy real estate.
  - Make payments on loans originated after 02-15-20.
  - Make investments or loans.
  - Make contributions or other payments to, or on behalf of, political parties, political committees, or candidates for election.
  - Any other use prohibited by the Administrator.

How is "principal business activity" being defined?

- To determine a given firm's principal business activity, the SBA will consider the distribution of an entity's receipts, employees and costs of doing business among the different lines of business activity in which its business operations occurred for the most recently completed fiscal year. An entity's principal business activity will be the one in which it has the greatest combined amount of revenues, expenses, employees and work hours, assets, contracts, and other business activity as compared to all its other lines of business. The SBA may also consider other factors, such as the distribution of patents, contract awards, and assets, as appropriate.

How is "fixed seating" being defined as a requirement for museums and movie theatre operators?

- Fixed seating is seating permanently fixed to the floor or ground or which is so heavy or cumbersome as to make removing it impractical, per the Economic Aid Act. Where fixed seating is required for a museum auditorium or movie theatre, a majority of the seating provided in that space must meet the definition of fixed seating.

How is "promoter" being defined?

- A promoter is an entity or individual that organizes live events by performing artists and carries out tasks (other than as a vendor or service provider) such as renting a performance site, contracting with artists or a production company for the performance, marketing events, and collecting gate receipts.
- A promoter must have:
  - (1) a profit (net income or loss) interest in the live event's presentation; and
  - (2) sole or joint rights to control the financial terms of the live event's presentation, use of the venue, and/or marketing of the event.
- Promoters may own and/or operate live venues or contract for space and may include festival promoters or the promotion of live performing arts events at outdoor, festival spaces that have all the required characteristics of a qualifying venue.

How is "theatrical producer" being defined?

- A theatrical producer is an eligible individual or entity (including the entity that employs the performers in a theatrical production) which has the responsibility for creating, producing, or operating live theatrical productions and that have either a non-passive profit (net income or loss) interest in a theatrical production (other than as a vendor or service provider) or sole or joint rights to control a theatrical production.
- Theatrical producers are responsible for functions such as negotiating debt or equity financing with lenders or investors, financial and tax reporting, and closing the production.

- The term “theatrical producer” does not include individuals or entities that provide financial support for a theatrical production without either a non-passive profit (net income or loss) interest or the control described above.

How is “performing arts organization operator” being defined?

- A performing arts organization operator is any entity (including a theatrical management business) which meets the criteria established under the Economic Aid Act and whose principal business activity is to create, produce, perform, and/or present live performances for audiences in qualifying venues, including amphitheaters, concert halls, auditoriums, theatres, clubs, festivals, and schools.

How are “cover charges” being defined as a requirement for live venue operator or promoter?

- The SBA defines “cover charges” to encompass front door entrance fees, food or beverage minimums, or other similar charges required to gain admission to a venue, whether collected via ticket sales, addition to a tab, or direct payment.

How is “defined performance space” being defined for live venue operator or promoter?

- A defined performance space is the distinct physical space reserved solely for the presentation of a performance, such as drama, music, dance, comedy, or other live performing arts activity

How is “defined audience space” being defined as a requirement for live venue operator or promoter?

- The defined audience space is the distinct physical area in which the audience experiences the performance for qualifying venues that host live performing arts events (not including museums and movie theatres).

How is “mixing equipment” being defined as a requirement for live venue operator or promoter?

- Mixing equipment is a sound mixer that mixes two or more audio signals together, provides one or more output signals, allows adjustment of levels and enhancement of sound with equalization and effects, and creates monitor feeds.

How is “public address system” being defined as a requirement for live venue operator or promoter?

- A public address system is an electronic system with at least one microphone, amplifier, and loudspeaker which increases the volume of a human voice, musical instrument, or other acoustic sound source or recorded sound or music.

How is “lighting rig” being defined as a requirement for live venue operator or promoter?

- A lighting rig is a structure that holds lights in place for illuminating a stage or other defined performance space.

How is “sound engineer” being defined as a requirement for live venue operator or promoter?

- A sound engineer is an individual who helps to produce a live performance by managing or enhancing source levels of sound, including by equalization and audio effects, mixing reproduction, and reinforcement of sound.

How is “booker” being defined as a requirement for live venue operator or promoter?

- A booker is an individual (e.g. a talent buyer) who books bands or other performing artists for venues and fields inquiries from performing artists and performing and their agents or representatives.

How is “stage manager” being defined as a requirement for live venue operator or promoter?

- A stage manager is an individual who supervises the performance space and physical aspects of a production and oversees the performance space while a production is in progress.

How is "security personnel" being defined as a requirement for live venue operator or promoter?

- Security personnel are individuals hired for a live event to provide protection and aid for attendees, performers, and venue employees. Duties of security personnel may include monitoring the event, maintaining order, escorting attendees out of events, and suppressing disturbances.

How is "box office manager" being defined as a requirement for live venue operator or promoter?

- A box office manager is an individual who is responsible for overseeing the sale of all tickets or receipt of admission fees, and may include the task of ensuring the security of payments exchanged.

How is "being paid fairly" for a performer being defined?

- Being paid fairly means that event performers are paid in an amount based on a percentage of sales, a guarantee (in writing or standard contract), or another mutually beneficial formal agreement. Venues may also compensate performers by sharing an agreed upon portion of revenues received through door fees along with drink or meal tickets that may fall below 1099 reporting requirements.

What can an entity do to get ready to apply?

- As the SBA works on building the application platform, it would be in your best interest to register for a DUNS number so you can then register in the System for Award Management (SAM.gov). Also, gather documents that demonstrate your number of employees and monthly revenues so you can calculate the average number of qualifying employees you had over the prior 12 months. Lastly, determine the extent of gross earned revenue loss you experienced between 2019 and 2020. This and additional information such as floor plans, contract copies and other evidence will be needed to apply for an SVOG.

Must applicants register in the System for Award Management (SAM.gov) or can they use other identifiers like Individual Taxpayer Identification Numbers or Employer Identification Numbers to apply for an SVOG?

- SVOG applicants need to register with the federal government's SAM at www.SAM.gov to apply and cannot use an ITIN, EIN, or other means of identification or registration. Interested parties are encouraged to obtain a Dun and Bradstreet (DUNS) number (a prerequisite for SAM registration) as soon as possible. With a DUNS number, interested parties then should immediately begin registering in SAM.gov, as the SAM registration may take up to two weeks once submitted., a lender may consider whether a seasonal borrower was in operation on February 15, 2020 or for an 8-week period between February 15, 2019 and June 30, 2019 when deciding eligibility of the borrower.

When will SVOG applications open?

- SBA is in the process of setting up the grant program and is expected to begin accepting applications on April 8, 2021 via the Shuttered Venue Operators Grant (sba.gov) portal.

For determining applicant eligibility for priority periods, how is "revenue" being defined?

- The SBA will use gross revenues to determine how an entity qualifies for one of the priority periods.

If the entity's SVOG application is declined, will an SVOG applicant be able to appeal or request a reconsideration of the decision?

- No. Given SBA's history of never offering appeals for denied grant applicants in any other

program and the volume of expected SVOG applicants, the SBA will not institute an appeal process for denied SVOG applicants. Furthermore, given the potential for demand for SVOG funding to outpace supply, establishing an appeal process for denied applicants might further run the risk of tying up funding that could instead go to eligible applicants in dire need of timely assistance.

How are "earned revenue" and "gross earned revenue" being defined by the SBA?

- As required by the Economic Aid Act, the SBA is defining earned revenue and gross earned revenue (the two terms in the law) in accordance with common principals of the accrual method of accounting. Using this, only monies organizations receive from the sale of goods or services are counted as earned revenue. This commonly accepted definition of earned revenue does not include other sources of funds that an organization may receive, such as donations, sponsorships, governmental assistance, or returns on investments. Gross earned revenue is the total of earned revenue from various sales of goods or services, such as admission tickets, merchandise, food and beverages, advertising sales and contracted presentation income.

How is "gross revenue" being defined by the SBA?

- Gross revenue is functionally equivalent to 'receipts,' which the SBA has defined under 13 C.F.R. § 121.104 as meaning "all revenue in whatever form received or accrued from whatever source." This will include contributions, donations, and grants from any and all sources (excluding any disaster assistance funding).

Are donations / contributions included in gross earned revenue?

- No. Only earned revenue should be included in calculations of gross earned revenue. Unearned revenue, including donations and other gratuitous contributions, such as foundation grants, corporate sponsorships and individual gifts, should not be included.

Are fundraising event receipts considered gross earned revenue?

- In dealing with fundraising events, the SBA will follow the same general principles applied to tax deductions for donations to charities. This means that the portion of the amount an individual pays in connection with a fundraising event which represents the estimated value of the good or service they receive in exchange must be included in gross earned revenue. However, that portion of the amount such an individual pays that exceeds the estimated value of the good or service they receive will be considered a donation and is not included in gross earned revenue.
- For example, if a ticket to a fundraising dinner costs $100 per person and the estimated value of the dinner provided is $50, then $50 of the funds generated from the fundraising ticket would be considered gross earned revenue and the other $50 would be considered a donation and would be excluded from gross earned revenue.

Does a non-profit count contributions and grants revenue?

- No. Both contributions and grants revenue would be excluded from an organization's earned revenue. However, the SBA will take into account an organization's Federal grants revenue to determine whether it meets the eligibility limit of having no more than 10% of its gross revenue from Federal sources, not including disaster assistance.

Does a non-profit count membership revenue?

- Like fundraising, the portion of membership cost that represents the estimated value of the goods or services provided as a condition of membership should be included in gross earned revenue. The portion of a membership cost that exceeds the estimated value of the goods or services provided as a condition of membership is considered a contribution and excluded from gross earned revenue.