

## SBA SHUTTERED VENUE OPERATORS GRANT PROGRAM

Congress has passed several rounds of financial assistance and relief in response to the COVID-19 pandemic, including most recently the *American Rescue Plan*. The *American Rescue Plan* includes additional relief for live venue small businesses that are struggling as a result of the pandemic.

**\*\*\* SBA PORTAL FOR APPLICATIONS TO OPEN APRIL 26<sup>TH</sup> \*\*\***

On Monday, April 26<sup>th</sup>, the SBA began accepting applications for the Shuttered Venue Operators (SVO) grant program through an application portal, which you can access [here](#). SBA initially opened its application portal on April 8<sup>th</sup>, but closed it later that day after applicants nationwide experienced technical problems.

Here are some steps you can take to prepare to apply:

- Review the SBA's [frequently asked questions](#) and [video tutorials](#) for more information on applying for a grant.
- Register in the federal government's System for Award Management (SAM.gov), as this is required for an entity to receive an SVO grant.
- Review the [preliminary application checklist](#) and [eligibility requirements](#).

The *American Rescue Plan* provided an additional \$1.25 billion nationwide for the program and it now allows eligible entities to access both SVO grants and PPP loans, which was previously prohibited by the December relief law. Entities are now eligible for SVO grants regardless of whether they received a second or first PPP loan after December 27, 2020. However, once an entity applies for an SVO grant, they can no longer apply for PPP. An entity's SVO grant amount will also be reduced by the amount of PPP loans received on or after December 27, 2020. PPP currently expires on March 31, 2021, but it is expected that Congress will pass an extension before that deadline.

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### OVERVIEW

The December relief law provided \$15 billion nationwide to a new SBA grant program for live venues impacted by the public health crisis. Eligible grant recipients include live venue operators, promoters or theatrical producers, independent movie theatre operators, museum operators, and talent representatives. Of the total amount, \$2 billion is set aside for eligible entities that employ fewer than 50 full-time employees.

### Eligibility Overview

- All entities must have been fully operational on February 29, 2020.
- As a baseline for eligibility, entities must demonstrate at least a 25 percent reduction in gross earned revenue in any quarter of 2020, relative to the same quarter in 2019. Note that there are stricter revenue loss criteria for first priority and second priority grants, which are explained below.
- Entities must be independent—i.e., they must not be majority owned or controlled by an entity that:

- Issues publicly listed securities;
- Owns or operates venues in more than one country, or in more than 10 states (including the District of Columbia, Puerto Rico, and any other territory or possession of the United States);
- Employs more than 500 people on a full-time basis; or
- Receives more than 10 percent of gross revenue from federal funding.
- Live venue operators, promoters, theatrical producers, and live performing arts organizations must—as a principal business activity—organize, promote, produce, manage, or host live concerts, comedy shows, theatrical productions, or other events by performing artists.
  - They must be organizing, promoting, producing, managing, or hosting future live events.
- Independent movie theaters must be open or intend to reopen.
- Museum operators must be open or intend to reopen.
- Talent representatives must be representing or managing artists and entertainers.

## GRANT DETAILS

### First Priority Grants

During the first two weeks in which SBA awards these grants, they will only be awarded to entities with revenue, between April 1, 2020, and December 31, 2020, that was **not more than 10 percent of their revenue** from the corresponding period in 2019.

- For purposes of determining revenue for first priority grants, any amounts received under the CARES Act (e.g., Paycheck Protection Program loans) are **not** counted as revenue.
- The SBA will use an accrual method of accounting for determining revenue.

### Second Priority Grants

During the two-week period immediately following that, SBA will only award grants to entities with revenue, between April 1, 2020, and December 31, 2020, that is **not more than 30 percent of their revenue** from the corresponding period in 2019.

- The methods of determining revenue for second priority grants are the same as first priority grants (see above).

### Grant Amount

If the entity or person began operations on or before January 1, 2019, the grant is the lesser of:

- 45 percent of gross earned revenue during 2019; or
- \$10 million.

If the entity began operations after January 1, 2019, the grant is the lesser of:

- 45 percent of average monthly gross earned revenue for each full month of 2019 in which the entity was operational, multiplied by 6; or
- \$10 million.

### Supplemental Grants

SBA may make a supplemental grant to an entity that already received a first- or second-priority grant if, as of April 1, 2021, the entity's revenue for the most recent calendar quarter is not more than 30 percent of revenue for the corresponding quarter of 2019. Supplemental grants are 50 percent of the initial grant amount received.

### **Maximum Grant Amount**

In all cases, the total amount of grants received (including supplemental grants) may not exceed \$10 million.

### **Timing Considerations**

- Grant funds must be used for costs incurred between March 1, 2020, and December 31, 2021.
  - If an entity receives a supplemental grant, amounts received under either the initial or supplemental grant may be used for costs incurred through June 30, 2022.
- Unless they receive an extension for a supplemental grant, recipients must return any unused funds to the SBA if they are not expended within a year of disbursement. If they receive a supplemental grant, recipients have 18 months from the date of their first grant award to spend the funds.

### **Use of Funds**

Entities may use the funds for:

- Any allowable use of proceeds for PPP loans;
- Advertising, production transportation, and capital expenditures related to producing a theatrical production, concert, or comedy show;
- Scheduled principal and interest payments on debt (including mortgages) entered into as of February 15, 2020;
- Payments made to independent contractors, as reported on Form-1099 MISC, not to exceed a total of \$100,000 in annual compensation for any individual employee of an independent contractor; or
- Other ordinary and necessary business expenses.

Entities are not permitted to use funds:

- To purchase real estate;
- For payments of interest or principal on loans originated after February 15, 2020;
- To invest or re-lend funds; or
- For contributions or expenditures to, or on behalf of, any political party, party committee, or candidate for elective office.

## **ELIGIBLE GRANT RECIPIENTS**

### **Eligible Live Venues, Promoters, Producers, and Live Performing Arts Organizations**

Live venues are eligible if:

- They have a defined performance and audience space;
- They have mixing equipment, a public address system, and a lighting rig;

- They engage one or more individuals to carry out not less than two of the following roles:
  - Sound engineer;
  - Booker;
  - Promoter;
  - Stage manager;
  - Security personnel;
  - Box office manager;
- There is a paid ticket or cover charge to attend most performances, and artists are paid fairly or do not play for free or solely for tips, except for fundraisers or similar charitable events;
- Performers are paid in an amount that is based on a percentage of sales, a guarantee (in writing or standard contract), or another mutually beneficial formal agreement;
- For a venue owned or operated by a nonprofit that produces free events, the events must be produced and managed primarily by paid employees, not by volunteers;
- Performances are marketed through listings in printed or electronic publications, on websites, by mass email, or on social media; and
- At least 70 percent of revenue is generated through cover charges or ticket sales, production fees or production reimbursements, nonprofit educational activities, or the sale of event beverages, food, or merchandise.

You do **not** have to operate a live venue to be eligible. Promoters, producers, and live performing arts organization operators are also eligible if:

- As a principal business activity, they organize, promote, produce, manage, or host live concerts, comedy shows, theatrical productions, or other events by performing artists, for which:
  - A cover charge through ticketing or front door entrance fee is applied;
  - Performers are paid in an amount that is based on a percentage of sales, a guarantee (in writing or standard contract), or another mutually beneficial formal agreement; and
  - At least 70 percent of revenue is generated through cover charges or ticket sales, production fees or production reimbursements, nonprofit educational activities, or the sale of event beverages, food, or merchandise; **or**
- They are an individual or entity that, as a principal business activity, makes tickets to the events described above available for purchase by the public not less than 60 days before the events (on average).

For-profit, non-profit, and government-owned entities are eligible, including corporations, limited liability companies, partnerships, or sole proprietorships.

### **Eligible Independent Movie Theaters**

An independent movie theater (or theaters) are eligible if they have the following characteristics:

- At least one auditorium that includes a motion picture screen and fixed audience seating;
- A projection booth or space containing at least one motion picture projector;
- A paid ticket charge; and
- Motion picture exhibitions that are marketed through showtime listings in printed or electronic publications, on websites, by mass mail, or on social media.

### **Eligible Museum Operators**

- Operate one or more museums;
- Had an endowment of not more than \$75 million as of December 31, 2019.
- The museum(s) for which the operator is seeking a grant have the following characteristics:
  - Serves as a museum as its principal business activity;
  - Indoor exhibition spaces that are a component of the principal business activity and which have been subjected to pandemic-related occupancy restrictions; and
  - At least one auditorium, theater, or performance or lecture hall with fixed audience seating and regular programming.

### **Eligible Talent Representatives**

- An agent or manager that is engaged in representing or managing artists and entertainers as at least 70 percent of their operations;
- Books or represents musicians, comedians, actors, or similar performing artists primarily at live events in venues or at festivals; and
- Represents performers (as described in the previous bullet) that are paid in an amount based on the number of tickets sold, or a similar basis.
- This includes agents or managers who operate for profit or as nonprofits; are government-owned; are corporations, limited liability companies, partnerships, or operated as sole proprietorships.