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Updated information on "Shuttered Venue Operators Grant" program

A program—the "Shuttered Venue Operators Grant" (SVOG) program—provides relief to entities such as live venues and live performing arts organizations, museums, and theatres that have encountered financial challenges because of the coronavirus (COVID-19) pandemic.

The Consolidated Appropriations Act, 2021 (enacted December 27, 2020) provided funding for the SVOG program.

The SVOG program—like the Paycheck Protection Program (PPP)—is administered by the Small Business Administration (SBA) and provides up to $10 million in funding for eligible persons or entities involved in producing, or operating venues that host, live artistic events.

The SBA in March 2021 provided the following information about the SVOG program:

- **SVOG FAQs** [PDF 405 KB]
- **Eligibility requirements** [PDF 152 KB]
- **Preliminary application checklist** [PDF 137 KB]

The SBA has not yet opened the application process for grants.

SVOG applications

While the application process for the SVOG is not yet available, those venue operators that may be eligible for a grant need to be thinking about this program now. Before recent legislative changes, entities were not eligible for the SVOG program if they filed an application or received support under the PPP after December 27, 2020. If the venue operator received PPP funding earlier than December 27, 2020, the eligibility for the SVOG was not affected.

The *American Rescue Plan Act of 2021* (Pub. L. No. 117-2)) (enacted March 11, 2021) revised these rules to allow PPP recipients to receive a grant under the SVOG program (but recipients of SVOG funds are not allowed PPP loans).

Entities that have suffered greater economic losses will have their SVOG applications processed first. Grant applications will be processed in the following order:

- First priority—In the first 14-day period, applications from eligible entities that have faced 90% or greater earned revenue loss between April 2020 through December 2020 due to the COVID-19 pandemic

- Second priority—In the second 14-day period following the initial period, applications from eligible entities that have faced 70% or greater earned revenue loss between April 2020 through December 2020 due to the COVID-19 pandemic

- Third priority—After the first 28-day period, applications from entities that suffered a 25% or greater earned revenue loss between one quarter of 2019 and the corresponding quarter of 2020

After these priority periods, recipients of first, second, and third priority round awards that suffered a 70% or greater revenue loss for the most recent calendar quarter may apply for supplemental SVOG awards.

Grant funds given out during the first two 14-day priority periods cannot exceed 80% of total grants appropriated under the SVOG program. Additionally, at least $2 billion in grant funds will be set aside for eligible entities with less than 50 full-time employees.

Eligibility

Several types of entities may be eligible for the SVOG program, including the following:

- Live venue operators or promoters, theatrical producers, or live performing arts organization operators

- Operators of a "relevant museum"—which is defined broadly to include aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks

- Motion picture theatre operators

- Talent representatives

To be eligible for the SVOG, an entity must meet several eligibility criteria. While some of the requirements vary depending on the type of entity, all entities must have been fully operational as of February 29, 2020, and currently be open (or intend to reopen). In addition, they must have experienced a drop of at least 25% in "gross earned revenue" in at least one quarter of 2020, as compared with the same quarter of 2019.

Eligible entities may be nonprofit organizations or state or local government-owned entities, including public colleges and universities, as well as for-profit entities. However, an entity will not be eligible for an SVOG if it (or an entity that owns or controls it) is a publicly traded company or received 10% or more of its 2019 gross revenue from federal government funding (not counting disaster assistance). For purposes of this 10% federal funding limitation, federal student aid (such as Pell grants) is counted.

Note, however, that public university-based eligible entities that are owned or controlled by states or local governments are not subject to this 10% federal funding limit.

Refer to the SBA releases (above).

Coordination with PPP, ERC

As noted earlier, an entity will not be eligible for an SVOG if it has applied or received a loan through the PPP after December 27, 2020. The PPP program, as extended by the CAA, is set to expire on March 31, 2021. This has put organizations that may be eligible for the SVOG program in a difficult position:

- Do they apply for the PPP before the March 31 deadline, making them ineligible for the SVOG, which is not yet accepting applications? or

- Do they forego the PPP application to wait to apply for the SVOG?

The Federal Reserve on March 8, 2021, issued a **release** announcing that, with the approval of the Treasury Secretary, it will extend the loan facility backing the PPP, by three months to June 30, 2021. This may result in the SBA extending the time to apply for PPP funding, which could give entities more time to consider applying for the SVOG before the opportunity to apply for additional PPP funding ends. The SVOG program is compatible with the employee retention credit (ERC). If an eligible entity receives an ERC for one of its employees and that credit does not fully cover the employee's salary, SVOG funds may be used to pay the uncredited portion of the employee's salary.

The SBA has released a **matrix** showing cross-program eligibility between the COVID-relief options administered by the SBA—namely the SVOG, the PPP, and the Economic Injury Disaster Loan (EIDL) programs.

Use of grant funds

For eligible entities in operation as of January 1, 2019, the SVOG initial funding amount is equal to 45% of the gross earned revenue during 2019 and the supplemental SVOG amount could be 50% of the initial SVOG amount. The maximum amount that an eligible entity may receive from the SVOG program is $10 million in total.

SVOG recipients have up to one year to use grant funds for allowable expenses—which may include payroll costs, rent payments, utility payments, scheduled payments on mortgages or other debt, covered worker protection expenditures, payments to independent contractors, and other ordinary and necessary business expenses such as maintenance, administrative costs, state and local taxes, and advertising. Grant funds may not be used to purchase real estate or to make political contributions, investments, loan prepayments or payments on loans originated after February 15, 2020. If an entity receives a Supplemental Phase SVOG, the entity will have 18 months to use all of their combined grant funds. Unused SVOG funds must be returned to the SBA.

SVOG awards count toward the Single Audit Act threshold, which requires an entity to comply with the Single Audit Act if it receives $750,000 or more in Federal grant funding in a single fiscal year.

For more information, contact a tax professional with KPMG's Washington National Tax practice:

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