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# SBA Shuttered Venue Operators Grant Program (SVOG)

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SUMMARY

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# SBA Shuttered Venue Operators Grant Program (SVOG)

The Small Business Administration (SBA) administers several types of programs to support small businesses, including direct disaster loan programs to assist their recovery from natural disasters; loan guaranty and venture capital programs to enhance their access to capital; management and technical assistance training programs to assist business formation and expansion; and contracting programs to increase their opportunities in federal contracting.

Congressional interest in the SBA's programs has always been high, but has become especially acute in the wake of the Coronavirus Disease 2019 (COVID-19) pandemic's widespread adverse economic impact on the U.S. economy. During the 116th Congress, in an effort to assist small businesses adversely affected by COVID-19, Congress approved legislation that provided the SBA $1.088 trillion in appropriations, a 35,282% increase over the $3.075 billion the SBA received during the 115th Congress.

Most of the SBA's funding during the 116th Congress was provided through supplemental appropriations for new and expanded programs, including the Paycheck Protection Program ($806.45 billion), Economic Injury Disaster Loans ($50.02 billion), Emergency Economic Injury Disaster Loan advance (grant) payments ($20 billion), Targeted Economic Injury Disaster Loan advance (grant) payments ($20 billion), and the Shuttered Venue Operators Grant (SVOG) program ($15 billion).

This report focuses on the new $16.25 billion SVOG program—authorized by P.L. 116-260, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021), provided an additional $1.25 billion by P.L. 117-2, the American Rescue Plan Act of 2021, and administered by the SBA's Office of Disaster Assistance—which provides grants to shuttered venues affected by the COVID-19 pandemic. Eligible participants include live venue operators or promoters; theatrical producers; live performing arts organization operators; "relevant" museum operators, including zoos and aquariums; motion picture theater operators; talent representatives; and subsidiaries of eligible entities that also meet the program's eligibility requirements.

Qualifying applicants can receive an initial grant equal to 45% of their gross earned revenue, up to $10 million. No less than $2 billion in grant funding is reserved for eligible applicants with up to 50 full-time equivalent employees. Supplemental grants equal to 50% of an initial grant (subject to the $10 million total cap) are also available under specified circumstances.

This report examines the SVOG's legislative origins, implementation, eligibility requirements, grant amounts, statutory requirements prioritizing the grant awards to qualified applicants who have suffered the greatest economic loss, allowable use of proceeds, and recordkeeping requirements. It assesses the administrative challenges facing the SBA, which has a great deal of experience administering lending programs but much less experience administering grant programs for for-profit businesses. It also discusses congressional oversight issues likely to arise over the coming months, including assessing the program's efficacy in assisting small businesses.

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# Introduction

Congressional interest in the Small Business Administration (SBA) has become especially acute in the wake of the Coronavirus Disease 2019 (COVID-19) pandemic's widespread adverse economic impact on the U.S. economy, including productivity losses, supply chain disruptions, major labor dislocation, and significant financial pressure on both businesses and households.

During the 116th Congress, in an effort to assist small businesses adversely affected by COVID-19, Congress approved legislation that provided the SBA $1.088 trillion in appropriations, a 35,282% increase over the $3.075 billion the SBA received during the 115th Congress.[1] Most of the SBA's funding during the 116th Congress was provided through supplemental appropriations for new and expanded programs, including the Paycheck Protection Program (PPP; $806.45 billion), Economic Injury Disaster Loans (EIDL; $50.02 billion), Emergency EIDL advance (grant) payments ($20 billion), and Targeted EIDL advance (grant) payments ($20 billion).[2] In addition, Congress appropriated $15 billion for a new, Shuttered Venue Operators Grant (SVOG) program.[3]

During the 117th Congress, P.L. 117-2, the American Rescue Plan Act of 2021, provided the SBA an additional $53.6 billion, including $1.25 billion for the SVOG.[4]

The $16.25 billion SVOG program, which provides grants to shuttered venues affected by the COVID-19 pandemic, can be distinguished among these other economic relief programs, in part, because it is targeted to certain types of entities in the arts and entertainment industry—live performance venues, museums, and movie theaters—instead of "small businesses," more generally. These lines of business are among those most significantly affected by COVID-19 and are projected to be among the most delayed to recover to pre-pandemic levels of economic activity.[5]

This report examines the SVOG's legislative origins, implementation, eligibility requirements, grant amounts, statutory requirements prioritizing the grant awards to qualified applicants who have suffered the greatest economic loss, allowable use of proceeds, and recordkeeping

[1] The Small Business Administration (SBA) received $1.92 billion in regular appropriations and $1.086 trillion in supplemental appropriations during the 116th Congress and $1.416 billion in regular appropriations and $1.659 billion in supplemental appropriations for disaster assistance during the 115th Congress.

For additional information and analysis of the SBA's appropriations, see CRS Report R43846, *Small Business Administration (SBA) Funding: Overview and Recent Trends*, by Robert Jay Dilger.

[2] For additional information and analysis of these programs, see CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry.

[3] Enacted as part of P.L. 116-260, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021, hereinafter P.L. 116-260).

[4] For additional information and analysis of these programs, see CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry.

[5] For example, the unemployment rate in the arts, entertainment, and recreation industry was 19.1% in January 2021 compared to 4.7% in January 2020. See U.S. Department of Labor Bureau of Labor Statistics, "Table A-31 Unemployed Persons by Industry, Class of Worker, and Sex," *Labor Force Statistics from the Current Population Survey* (last modified February 5, 2021). According to one estimate, the arts, entertainment, and recreation industry is expected to take the longest time to recover (by 2024 or later) to the 2019 level of output. See McKinsey & Company, *Covid-19 Recovery in Hardest-hit Sectors Could Take More Than 5 Years*, July 29, 2020, at https://www.mckinsey.com/featured-insights/coronavirus-leading-through-the-crisis/charting-the-path-to-the-next-normal/covid-19-recovery-in-hardest-hit-sectors-could-take-more-than-5-years#.

requirements. It also discusses issues of likely interest to Congress, including oversight of the program's implementation and ways to measure program performance.

# Legislative Origins

P.L. 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), signed into law on March 27, 2020, among other provisions, created the $349 billion (now $806.45 billion) Paycheck Protection Program (PPP), which provides low-interest, forgivable loans to small businesses adversely affected by the COVID-19 pandemic.[6]

Several organizations, including the National Independent Venue Association (NIVA), argued that PPP loan requirements limited the program's value for live venue operators. For example, they pointed out that businesses must have a headcount of 500 or fewer employees to be eligible for a PPP loan. Each employee is counted regardless of the number of hours worked. Because live venue operators typically depend on part-time employees, many of them were deemed ineligible for PPP assistance, even though their full-time equivalent employee count was below 500 employees. These organizations also argued that live venue operators tend to have high overhead expenses and lower payroll costs as a percentage of expenses than other businesses, making it difficult for live venue operators to meet the PPP's requirement that at least 60% of the loan proceeds have to be used on payroll to obtain full loan forgiveness.[7]

In recognition of these arguments, on July 7, 2020, Representative Peter Welch introduced H.R. 7806, the Save our Stages Act (SOS Act). The bill was cosponsored by Representative Roger Williams, signaling that the bill had bipartisan support. The bill subsequently had 174 cosponsors.

The bill would have authorized the SBA to make grants to eligible live venue operators, producers, promoters, or talent representatives with 500 or fewer full-time equivalent employees who have demonstrated, through revenue losses, that they have been adversely affected by the COVID-19 pandemic. Specifically, the SBA would have been authorized to make an initial grant to eligible operators, promoters, producers, or talent representatives equal to 45% of their 2019 gross revenue, capped at $12 million, and a supplemental grant equal to 50% of the initial grant if, as of December 1, 2020, their revenue for the most recent calendar quarter is not more than 20% of the revenue for the corresponding quarter during 2019. The initial grant award was to be used for eligible expenses incurred during the period beginning on March 1, 2020, through December 31, 2020. Supplemental grants could be used for eligible expenses incurred during the period beginning on March 1, 2020, through June 30, 2021. Specified eligible expenses included, among others, payroll costs, rents, utilities, mortgage interest payments, and personal protective equipment. The bill was referred to the House Committee on Small Business.

Senator John Cornyn introduced an identical companion bill (S. 4258) in the Senate on July 22, 2020. The bill was cosponsored by Senator Amy Klobuchar, signaling that the bill had bipartisan support, and referred to the Committee on Small Business and Entrepreneurship. The bill subsequently had 58 cosponsors.

Several organizations, including NIVA and the National Independent Talent Organization, gathered support for the bills. For example, NIVA claimed that it was part of an effort that

[6] For additional information and analysis of SBA-related COVID-19 programs, see CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry.

[7] National Independent Venue Association (NIVA), "About NIVA," accessed on February 2, 2021, at https://www.saveourstages.com/about-us.

resulted in more than 2.1 million emails being sent to "elected officials expressing their support for the Save Our Stages Act."[8] In addition, at a December 15, 2020, Senate congressional hearing on the bill, several organizations' representatives argued that the live events industry had suffered major economic losses due to the COVID-19 pandemic, with many venues having no income for many months, and that the prognosis for the industry's economic future was bleak. They also argued that eligibility for the additional relief that the Save Our Stages Act would provide should be expanded. As one witness testified,

> Save Our Stages only provides funding for venues, managers, booking agents and promotors. This is 8% of the Live Events Industry. All other segments of the industry receive no support via Save Our Stages. Here is a partial list of companies and people still in need of funding: Artists, Actors, Performers, Sound, Lighting, Video, Pyrotechnics, Lasers, Caterers, Rigging, Trucking, Bussing, Staging, Wardrobe, Designers, Dancers, Opera, Theaters, Festivals, Tours, Orchestras, Corporate Shows, Trade Shows, Conventions, Speakers, TV Studios and Stations, Radio Stations, Film, Theme Parks and attractions, Museums, Movie Theaters, Labor Companies, Free Lance workers, Circuses, Fairs, Rodeos, Water Shows, Freight, Drapes, Power, Radios, Manufacturers, and many others. We urge you to pass Save Our Stages, but to also save the rest of the Live Events Industry. All these industries need one another to survive. Venues will have no artists to play in them or people to staff the events without holistic industry funding. Please Save All Live Events.[9]

A revised version of the Save Our Stages Act was added to the FY2021 Consolidated Appropriations Act (P.L. 116-260) during congressional negotiations on the act's final provisions.[10] The revised version included additional funding (from $12 billion to $15 billion) and expanded eligibility to other industry segments. The act included language targeting the grants to smaller entities with revenue losses.

# Eligibility Requirements

Eligible applicants include

- live venue operators or promoters;
- theatrical producers;
- live performing arts organization operators;
- relevant museum operators, including zoos and aquariums, who meet specific criteria;
- motion picture theater operators;

[8] NIVA, "Save Our Stages Act Has Passed as Part of the COVID-19 Relief Bill," at https://www.saveourstages.com/; Jon Blistein, "Save Our Stages: How an Industry Hail Mary Became Live Music's $15 Billion Lifeline," *Rolling Stone*, December 22, 2020, at https://www.rollingstone.com/music/music-features/live-music-save-our-stages-relief-1107081/; and Dave Brooks, "Save Our Stages Passes With Stimulus Package: Where That $15B Is Going, What It Means for Live Music," *billboard*, December 22, 2020, at https://www.billboard.com/articles/business/touring/9503986/save-our-stages-stimulus-package-15-billion/.

[9] Testimony of Michael Strickland, owner Bandit Lites, U.S. Congress, Senate Committee on Commerce, Science, and Transportation, Subcommittee on Manufacturing, Trade, and Consumer Protection, *Examining the Impact of COVID-19 on the Live Event Entertainment Industry*, hearing on S. 4258, 116th Cong., 2nd sess., December 15, 2020.

[10] Jem Aswad, "Senator Amy Klobuchar Explains $15 billion Save Our Stages Act," *Chicago Tribune*, December 21, 2020, at https://www.chicagotribune.com/entertainment/ct-ent-amy-klobuchar-save-our-stages-act-20201221-jpvwthm3tvabnonqtrhx3crr54-story.html.

- talent representatives; and
- subsidiary businesses of eligible entities that also meet the eligibility requirements on their own rights.[11]

In addition, applicants must generally

- be located in, and primarily operate within, the United States;
- make a significant contribution to the United States' economy through the payment of taxes or the use of American products, materials or labor;
- have been in operation as of February 29, 2020;
- have not received a PPP loan on or after December 27, 2020;
- not be a publicly traded corporation, or majority owned and controlled by a publicly traded corporation;
- not present live performances or sell products of a prurient sexual nature;
- not have more than 10% of their 2019 gross revenue from the federal government (not counting disaster assistance);
- have a reduction of at least 25% in gross earned revenue during (at least) one quarter of 2020 as compared to the corresponding quarter of 2019; and
- certify that the uncertainty of current economic conditions makes necessary the grant to support ongoing operations.

As will be discussed, additional eligibility requirements also exist for specific types of individuals and entities.

Furthermore, an applicable entity cannot be owned or controlled by a parent entity with *more than two* of the following characteristics:[12]

- owning or operating venues, relevant museums, motion picture theatres, or talent agencies or talent management companies in more than one country;
- owning or operating venues, relevant museums, motion picture theaters, or talent agencies or talent management companies in more than 10 states; or
- having more than 500 full-time equivalent employees (not counting employees working fewer than 10 hours per week) as of February 29, 2020.[13]

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[11] SBA, "Shuttered Venue Operators Grant," at https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/shuttered-venue-operators-grant.

For entities with multiple subsidiaries, the parent entity must meet the eligibility criteria, but each subsidiary does not need to meet the criteria independently. A maximum of five business affiliates can receive a grant (six grants in all). In addition, an eligible museum, and all of its subsidiary museums, may receive no more than $10 million combined under the program.

If a subsidiary wants to apply for its own grant, it must meet the eligibility requirements. Subsidiaries that qualify for grants on their own are not treated as affiliates of their parent entities or one another.

[12] In determining ownership and control, the SBA's affiliation rules generally apply to the Shuttered Venue Operators Grant (SVOG) program. See 13 C.F.R. §121.301(f). P.L. 116-260 provides for a modified application of the affiliation rules to the SVOG. One example is that a parent could employ more than 500 employees (possibly excluding it from being "small" under the SBA's size standards) but still receive an SVOG as long as it does not operate in more than 1 country or 10 states. Another exception to the general affiliation rules is explained in the "Initial Grant Amount" of this report.

[13] Based on P.L. 116-260, full-time equivalent employees are determined according to the following rules: (1) any employee working at least 30 hours per week is counted as a full-time employee; (2) any employee working at least 10

## Live Venue Operator or Promoters, Theatrical Producers, and Live Performing Arts Organization Operators

In addition to the program's general eligibility criteria, a live venue operator or promoter, theatrical producer, or live performing arts organization operator, which may be for-profit, nonprofit, or publicly owned and operated, must

- be, or intend to be, organizing, promoting, producing, managing, or hosting future live concerts, comedy shows, or theatrical productions or other events by performing artists as their principal business activity;
- have a defined performance and audience space, mixing equipment, a public address system, and a lighting rig;
- engage one or more individuals to carry out not less than two of the following roles: sound engineer, a booker, a promoter, a stage manager, security personnel, and a box office manager;
- have a paid ticket or cover charge to attend most performances and paid artists who do not play for free or solely for tips, except for fundraisers or similar charitable events. The performers must be 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. Venues owned or operated by nonprofit entities that produce free events must be produced and managed primarily by paid employees, not volunteers;
- generate at least 70% of revenue through cover charges or ticket sales, production fees or reimbursements, nonprofit educational initiatives, or the sale of event beverages, food, or merchandise; or
- make tickets available for purchase by the public an average of not less than 60 days in advance of the live concerts, comedy shows, theatrical productions, or other qualifying events and have performers who are paid in an amount that is based on a percentage of sales, a guarantee, or another mutually beneficial formal agreement.

## Relevant Museum Operators, including Zoos and Aquariums

In addition to the program's general eligibility requirements, relevant museum operators, which 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 (see 20 U.S.C. §9172), must

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hours and fewer than 30 hours per week is counted as one-half of a full-time employee; and (3) any employee working fewer than 10 hours per week are not counted as an employee. Also, in determining employment, subsidiary entities that otherwise qualify for grants are not treated as affiliates of their parent entities, or one another. The SBA has indicated that once the qualifying employees are determined, the applicant calculates the average number of employees over the prior year in each individual pay period and divides that amount by the number of pay periods in the year to determine if its average number of full-time equivalent employees is 500 or fewer.

For rolling guidance on eligibility criteria, see SBA, "Shuttered Venue Operators Grants – FAQ," accessed February 16, 2021, at https://www.sba.gov/document/support-shuttered-venue-operators-grants-faq?utm_medium=email&utm_source=govdelivery.

- operate as a public, tribal, or private nonprofit agency or institution organized on a permanent basis for essentially educational, cultural heritage, or aesthetic purposes; have a professional staff; own or utilize tangible objects, care for the tangible objects, and exhibit the tangible objects to the public on a regular basis;
- be open or intend to reopen;
- serve as a relevant museum as its principal business activity;
- have indoor exhibition spaces that are a component of the principal business activity and have been subjected to pandemic-related occupancy restrictions; and
- have at least one auditorium, theater, or performance or lecture hall with fixed seating and regular programming.

### Motion Picture Theatre Operators

In addition to the program's general eligibility requirements, a motion picture theater operator, which may be for-profit, nonprofit, or government-owned, must

- have as its principal business activity the ownership or operation of at least one place of public accommodation for the purpose of showing movies for a fee;
- be open or intend to reopen for the primary purpose of publicly exhibiting motion pictures;
- have 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, and a paid ticket charge; and
- market motion pictures through show-time listings in printed or electronic publications, on websites, by mass mail, or on social media.

### Talent Representatives

In addition to the program's general eligibility requirements, a talent representative (i.e., a corporation, limited liability company, partnership, or sole proprietorship serving as an agent or manager for artists and entertainers) may be for-profit, nonprofit, or publicly owned and operated, and must

- be representing or managing artists and entertainers;
- have at least 70% of its operations involved in representing or managing artists and entertainers;
- book or represent musicians, comedians, actors, or similar performing artists primarily at live events in venues or at festivals; and
- represent performers that are paid in an amount that is based on the number of tickets sold, or a similar basis (e.g., entrance fees).

## Grant Amounts

The SVOG program awards initial and, if funding is available, supplemental grants.

## Initial Grant Amount

Eligible entities that were in operation on January 1, 2019, receive an initial grant equal to 45% of their 2019 gross earned revenue, or $10 million, whichever is less.[14]

Eligible entities that began operations after January 1, 2019, receive an initial grant equal to the entity's average monthly gross revenue for each full month it was in operation during 2019 multiplied by six, or $10 million, whichever is less.

A relevant museum operator may not receive grants in excess of $10 million for all relevant museums operated by the operator. Pursuant to the program's affiliation rules, an applicant, together with its affiliates, cannot collectively receive more than $60 million in grants.

## Supplemental Grant Amount

A supplemental grant equals 50% of the initial grant (subject to the total $10 million cap on all SOVG grants received by the recipient).

The SBA may not award a supplemental grant until all applications for initial grants submitted within the program's first 60 days have been processed.

Individuals or entities that received an initial grant may receive a supplemental grant if, as of April 1, 2021, the individuals' or entities' revenue (not including amounts received under the CARES Act and its amendments) for the most recent quarter (first quarter of 2021) is not more than 30% of the revenue for the corresponding quarter in 2019 (first quarter of 2019).

The SBA is authorized to establish alternative methods to calculate revenue losses for seasonal employers that would be adversely affected if January, February, and March are excluded from the calculation of year-over-year revenue.

# Prioritization of Grant Disbursements

P.L. 116-260 requires the SBA to prioritize the awarding of initial grants in the following manner:

*First Priority Period*—During the first 14 days of the program accepting applications, the SBA may only award grants to otherwise eligible applicants that have experienced a 90% or greater revenue loss during the period beginning on April 1, 2020, through December 31, 2020, compared with the applicant's revenue during the same period in 2019 due to the COVID-19 pandemic.

*Second Priority Period*—During the next 14 days of the program, the SBA may only award grants to otherwise eligible applicants that have experienced a 70% or greater revenue loss during the period beginning on April 1, 2020, through December 31, 2020, compared with the applicant's revenue during the same period in 2019 due to the COVID-19 pandemic.

The SBA may award up to 80% ($12 billion) of the SVOG program's funds during this 28-day priority period.

[14] The SBA counts only funds received from the sale of goods or services as earned revenue. Revenue from other fund sources, such as donations, sponsorships, governmental assistance, or returns on investments are not counted. Gross earned revenue is the total of earned revenue from the various sales of goods and services, such as admission tickets, merchandise, food and beverages, advertising sales, and contracted presentation income. See SBA, "Shuttered Venue Operators Grants – FAQ," January 27, 2021, at https://www.sba.gov/document/support-shuttered-venue-operators-grants-faq?utm_medium=email&utm_source=govdelivery.

*Third Priority Period*—Thereafter, initial grants of remaining funds can be made to all other eligible applicants (entities that have experienced a 25% or greater revenue loss between one quarter of 2019 and the corresponding quarter in 2020 due to the COVID-19 pandemic).

As mentioned, the SBA may not award a supplemental grant until all applications for initial grants submitted within the program's first 60 days have been processed. In addition, the SBA is required to reserve no less than $2 billion of appropriated funds during the first 59 days of the opening of the SVOG program for grants to entities with 50 or fewer full-time equivalent employees.

# Use of Grant Funds

The initial grant award may be used for eligible expenses incurred during the period beginning on March 1, 2020, through December 31, 2021. Supplemental grants may be used for eligible expenses incurred during the period beginning on March 1, 2020, through June 30, 2022.

Any initial grant proceeds that are not spent (on allowable expenses) within one year and any supplemental grant proceeds not spent within 18 months of disbursement must be returned to the SBA.

Grant funds may be used for the following expenses:

- payroll costs;
- rent payments;
- utility payments;
- scheduled mortgage payments (not including the prepayment of principal);
- scheduled debt payments (not including the prepayment of principal) on any indebtedness incurred in the ordinary course of business prior to February 15, 2020;
- worker protection expenditures;
- payments to independent contractors (not to exceed $100,00 in annual compensation per independent contractor);
- other ordinary and necessary business expenses, including maintenance costs, administrative costs (including fees and licensing costs); state and local taxes and licensing fees; operating leases in effect as of February 15, 2020, and insurance payments; and
- advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production, concert, exhibition, or comedy show.[15]

Grant funds may not be used to

- purchase real estate;
- make payments on loans originated after February 15, 2020;
- make investments or loans;

[15] P.L. 116-260 specifies that grant proceeds cannot be used primarily for advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production, concert, exhibition, or comedy show.

- make contributions or other payments to, or on behalf of, political parties, political committees, or candidates for elective office; or
- cover any other expenditure prohibited by the SBA Administrator.[16]

# Program Implementation

The SBA has a long history of providing grants to marketing, management, and technical assistance training providers (e.g., Small Business Development Centers, Women Business Centers, SCORE, Microloan intermediaries), and, in recent years, with state governments through the State Trade Expansion Program.[17] The SBA does not have directly comparable experience administering grants to for-profit businesses. As such, the agency does not have as many analogous programs or precedents to expedite the development of the SVOG program.

P.L. 116-260 was signed into law on December 27, 2020. The act did not specify a deadline for the SBA to implement the SVOG program, which the SBA typically does through the publication of regulations in the *Federal Register* and the release of SBA guidance or procedural notices on the SBA website.

However, other statutorily required deadlines suggested that Congress expected the SBA to implement the SVOG program expeditiously. For example, the SBA was given until February 10, 2021 (45 days from the date of enactment) to submit an oversight and audit plan to the House Committee on Small Business and Senate Committee on Small Business and Entrepreneurship "that details—(A) the policies and procedures of the Administrator for conducting oversight and audits of grants under this section; and (B) the metrics that the Administrator shall use to determine which grants will be audited."

The act also specified that the SBA was to provide to the House and Senate Committees on Small Business, not later than February 25, 2021 (60 days after the date of enactment), the first of a series of monthly oversight and audit reports of the initial grants approved and disbursed.

Soon after P.L. 116-260's enactment, the SBA created a SVOG program web page, providing a brief overview of the program's details (when enacted, available funding, and a link to frequently asked questions), program eligibility, formulas for determining SVOG initial and supplemental grant amounts, application instructions (initially just a table indicating how grant awards were to be prioritized because the application portal was not yet available), and allowable uses for the funds.[18]

Recognizing that venue operators were anxious for the program to begin and eager to learn if they would qualify for assistance, on January 14, 2021, the SBA held an informational webinar on the

[16] The SBA has not prohibited any other uses to date.

[17] In addition, the SBA is authorized to provide grants to states to contract with small businesses to plant trees. The program was operational during the 1990s. See P.L. 101-515, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991.

For additional information and analysis concerning the SBA's management and technical assistance training programs, see CRS Report R41352, *Small Business Management and Technical Assistance Training Programs*, by Robert Jay Dilger. For additional information and analysis concerning the SBA's trade and export promotion programs, see CRS Report R43155, *Small Business Administration Trade and Export Promotion Programs*, by Sean Lowry.

[18] The frequently asked questions document was updated on January 27, 2021, and February 5, 2021. See SBA, "Shuttered Venue Operators Grants – FAQ," January 27, 2021, at https://www.sba.gov/document/support-shuttered-venue-operators-grants-faq?utm_medium=email&utm_source=govdelivery.

SVOG program.[19] The webinar provided introductory information about the SVOG program, who can apply, how potential organizations can prepare, and additional details concerning program eligibility and the application process.[20] A second informational webinar, provided by the Central Indiana Small Business Development Center, was held on February 2, 2021.[21] The SBA provided a third informational webinar on the program on March 31, 2021.[22]

The SBA Office of Disaster Assistance expected that it would take some time for the program to become operational because the SBA's disaster assistance electronic application processing software is configured for loans, not grants. As a result, the SBA has to create new software to process SVOG applications. SBA's Office of Disaster Assistance had a similar challenge in administering the Emergency Economic Injury Disaster Loan (EIDL) advance payment (grant) program (authorized by P.L. 116-136) and the Targeted EIDL advance payment (grant) program (authorized by P.L. 116-260). Although both of these programs are technically still a loan, the SBA had to rewrite the software underpinning its disaster assistance electronic portal to account for the programs' various eligibility requirements and loan (award) amounts.

As the SBA continued to build the SVOG program's application portal and complete the program's regulations and guidance, many venue operators contacted both the SBA and congressional offices with questions about program eligibility and the application acceptance date. In response to these questions, some Members of Congress contacted the SBA, urging the agency to provide eligibility for specific types of venues. For example, Senators Marco Rubio, Jim Risch, and Mitt Romney sent a letter to the SBA on January 16, 2021, urging the agency to include minor league sports venues in the program.[23] The SBA subsequently included in its SVOG Frequently Asked Questions (FAQs) document, updated on January 27, 2021, that minor league sports venues generally would not be eligible because "sports are not a form of performing art."[24]

On March 5, 2021, the SBA published a preliminary SVOG application checklist on its website to help potential applicants identify documentation that will be needed once the application portal is

[19] SBA, "SBA to Host Shuttered Venue Operators Grant Webinar on Jan. 14," at https://www.sba.gov/article/2021/jan/12/sba-host-shuttered-venue-operators-grant-webinar-jan-14-0.

[20] SBA, "Archived Webinar: Shuttered Venue Operators Grant Overview," November 14, 2021, at https://www.youtube.com/watch?v=PdfQGb6z-gg.

[21] SBA, "Shuttered Venue Operators Grant - Emergency Assistance for Eligible Venues Affected by the COVID Pandemic," February 2, 2021, at https://www.eventbrite.com/e/qa-session-on-the-shuttered-venue-operators-grant-tickets-138490953169?aff=erelexpmlt.

[22] SBA, "Archived Webinar: Shuttered Venue Operators Grant Information Session," March 31, 2021, at https://www.youtube.com/watch?v=CNWsgR9ESUs.

[23] Sen. Mitt Romney, "Romney Urges SBA to Include Minor League Sports Venues in Grant Eligibility: Would Permit Ogden Raptors to Receive Grant Funds for Lindquist Field," January 16, 2021, at https://www.romney.senate.gov/romney-urges-sba-include-minor-league-sports-venues-grant-eligibility.

[24] The SBA indicated that "while sports are not a form of performing art, if the operator of a sports stadium or similar athletic arena can meet the statutory definition of an eligible entity under the Economic Aid Act, including the requirement that its principal business activity must be the organization, promotion, management, or hosting of live concerts, comedy shows, theatrical productions or other events by performing artists, it should be eligible to apply for an SVOG." See SBA, "Shuttered Venue Operators Grants – FAQ," January 27, 2021, at https://www.sba.gov/document/support-shuttered-venue-operators-grants-faq?utm_medium=email&utm_source=govdelivery.

up and running (updated on March 11, 2021).[25] The SBA also published on its website on March 5, 2021, a table summarizing the SVOG's eligibility requirements (updated on March 16, 2021).[26]

On March 19, 2021, the SBA announced that it would start accepting SVOG applications on April 8, 2021.[27] However, the application portal experienced technical difficulties, and the portal was shut down. No applications were accepted. The portal remained closed as the SBA worked on a fix. On April 23, 2021, the SBA announced that it was going to issue updated program documents and guidance later that day in anticipation of reopening the application portal on April 24, 2021. The SBA subsequently delayed the portal's reopening until noon (EDT) on April 26, 2021. Applicants were advised to continue to register for an application portal account so that they could submit their applications as soon as the portal reopened.

As of June 14, 2021, the SBA had received 14,214 applications requesting $11.5 billion and had awarded 411 grants totaling $304.2 million. The average grant was $740,000.[28] Various media outlets, citing interviews with SBA officials, reported that the SBA attributed the relatively slow pace of approvals to the need to review operating venue's relatively extensive supporting documents, including federal tax information, and reportedly brought in additional personnel from the SBA's Office of Capital Access to assist with the review of SVOG applications.[29]

As of July 26, 2021, the SBA had received 15,429 applications requesting $12.0 billion and had awarded 9,844 grants totaling $7.6 billion ($6.3 billion had been disbursed). The average award was $769,000.[30]

On July 22, 2021, the SBA announced in its SVOG Frequently Asked Questions document that SVOG awardees who received at least $100 less than they anticipated may request an award reconsideration and how those with declined applications (about 18% of applications) can appeal that adverse decision.[31] Notifications for the appeal and award amount reconsideration opportunities began on August 2, 2021, and August 4, 2021, respectively, and remained open for two weeks. The SBA also announced that, depending on funding, it would open the program for

[25] SBA, "Shuttered Venue Operators Grant Preliminary Application Checklist," at https://www.sba.gov/document/support-shuttered-venue-operators-grant-preliminary-application-checklist.

[26] SBA, "Shuttered Venue Operators Grant Eligibility Requirements," at https://www.sba.gov/document/support-shuttered-venue-operators-grant-eligibility-requirements.

[27] SBA, "SBA Launches Portal to Begin Accepting Shuttered Venue Operators Grant Applications on April 8 National informational webinar to review application process on March 30," March 19, 2021.

[28] SBA, "Shuttered Venue Operators Grant Public Report, as of June 14, 2021," at https://www.sba.gov/document/report-shuttered-venue-operators-grant-program-reports.

[29] For example, see Zachary Warmbrodt, "SBA vows to fix troubled venue rescue," *New York Times*, June 11, 2021; and Jem Aswad, "Indie Venues Send Distress Signal to Congress as $16 Billion in 'Save Our Stages' Relief Money Remains Tied up by SBA," *Variety*, at https://variety.com/2021/music/news/venues-congress-save-our-stages-relief-sba-1234992804/.

[30] SBA, "Shuttered Venue Operators Grant Public Report, as of July 26, 2021," at https://www.sba.gov/document/report-shuttered-venue-operators-grant-program-reports.

As of July 26, 2021, the SBA had not yet begun the review of 105 applications; 732 applications were being actively reviewed; 2,030 applications were found to be eligible, but had not yet been provided a notice of award; 9,844 applications were provided a notice of award; and 2,718 applications were provided a notice of decline.

[31] SBA, "Shuttered Venue Operators Grants: Frequently Asked Questions," July 22, 2021, at https://www.sba.gov/document/support-faq-regarding-shuttered-venue-operators-grant-svog.

supplemental SVOG awards on August 23, 2021.[32] Invitations to apply for supplemental awards subsequently began on August 27, 2021.[33]

On August 20, 2021, the SBA stopped accepting new SVOG applications.[34] As of September 27, 2021, the SBA had received 17,644 SVOG applications and had issued decisions on 17,018 of them (12,094 were approved and 4,924 were declined). The 12,094 SVOG approved grants totaled $9.8 billion ($9.6 billion had been disbursed). The average award was $809,000. The SBA also had received 3,805 SVOG supplemental grant applications. It had awarded 3,661 supplemental grants, totaling $1.2 billion (none had been disbursed). In total, the SBA had awarded $11.0 billion in SVOG grants ($9.6 billion had been disbursed).[35]

Now that the SBA is no longer accepting new SVOG applications, questions about the pace of SVOG application approvals may shift to questions about the portal's ability to provide information of interest for evaluating the program's use and efficacy. For example, will this information enable Congress to assess the program's (1) output performance, as measured by the number and value of the grant awards, average grant size, use of funds, and the distribution of grant awards by firm size, demographic characteristics, or business location; and (2) outcome performance, as measured by the number of jobs retained and created, or recipient survivability.

# Program Oversight and Reporting Requirements

P.L. 116-260 requires the SBA to increase its oversight of the SVOG program. To assist the agency in this effort, grant recipients must retain employment records documenting their compliance with the program's employment requirements for four years after receiving grants. Other records necessary to document compliance with SVOG requirements must be retained for three years after receiving the grant. The SBA is authorized to review and audit these records, and in the case of fraud, will require repayment of misspent funds or result in legal action to collect the funds.

In addition, as mentioned, the SBA was given until February 10, 2021 (45 days from the date of enactment) to submit an oversight and audit plan to the House Committee on Small Business and Senate Committee on Small Business and Entrepreneurship "that details—(A) the policies and procedures of the Administrator for conducting oversight and audits of grants under this section; and (B) the metrics that the Administrator shall use to determine which grants will be audited."

The act also specified that the SBA was to provide to the House Committee on Small Business and Senate Committee on Small Business and Entrepreneurship, not later than February 25, 2021 (60 days after the date of enactment) and each month thereafter until one year after the date on which the grant funds have been expended, an oversight and audit report that includes

- the total number of initial grants approved and disbursed;

[32] SBA, "SBA Reaches New Milestone Awarding $7.5 Billion in Shuttered Venue Operators Grants to over 10,000 Venues," July 27, 2021, at https://www.sba.gov/article/2021/jul/27/sba-reaches-new-milestone-awarding-75-billion-shuttered-venue-operators-grants-over-10000-venues.

[33] SBA, "SBA Opens Supplemental Grant Applications for Shuttered Venue Operators Grant Awardees," August 27, 2012, at https://www.sba.gov/article/2021/aug/27/sba-opens-supplemental-grant-applications-shuttered-venue-operators-grant-awardees.

[34] SBA, "Shuttered Venue Operators Grant," at https://www.sba.gov/funding-programs/loans/covid-19-relief-options/shuttered-venue-operators-grant.

[35] SBA, "Shuttered Venue Operators Grant Public Report," September 27, 2021, at https://www.sba.gov/document/report-shuttered-venue-operators-grant-program-reports.

- the total amount of grants received by each eligible person or entity, including any supplemental grants;
- the number of active investigations and audits of grants;
- the number of completed reviews and audits of grants, including a description of any findings of fraud or other material noncompliance; and
- any substantial changes made to the oversight and audit plan previously submitted.

In a related development, on April 7, 2021, the SBA's Office of Inspector General (OIG) issued a management alert indicating "serious concerns with the control environment and the tracking of performance results in the Shuttered Venue Operators Grant (SVOG) requiring immediate attention and action."[36] The OIG indicated that the SBA had decided to take into account an assessment of the applicant's level of risk (low, moderate, and high)[37] and the award amount to determine the SVOG award payment schedule (from 1 to 4 payments) and the likelihood of the applicant being audited (see **Table 1**).

**Table 1. SBA's Planned Risk Assessment for the SVOG Program's Grant Recipients**

| Risk Level | Award Amount | Payment Schedule |
|---|---|---|
| Low Risk | Less than $1 million | Lump Sum or 2 payments |
| Moderate Risk | Less than $1 million | 2 payments |
| Moderate Risk | $1 million to $10 million | 2 or 3 payments |
| High Risk | $1 million to $10 million | 3 or 4 payments |

**Source:** SBA, Office of Inspector General (SBA OIG), *Management Alert Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, Report Number 21-13, April 7, 2021, p. 3, at https://www.sba.gov/sites/default/files/2021-04/SBA%20OIG%20Report%2021-13.pdf.

The OIG noted that the SBA expected 15,000 applicants and an average award amount of $1 million. "In cases where disbursements have multiple payments, the grantee will be required to submit documentation to show how the funds were spent prior to receiving the next installment."[38] The OIG also noted that under the planned disbursement schedule

> the majority of awards will be categorized as low risk and as such, be disbursed in sweeping lump sum payments with minimal requirements and expectations for post-award accountability.... with the exception of auditing all grant recipients receiving $10 million, which is the maximum cap for any single award, the plan would likely result in a minimal number of recipients subject to an audit. Most notably at the low-risk level, ODA [SBA

[36] SBA, Office of Inspector General (SBA, OIG), *Management Alert Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, Report Number 21-13, April 7, 2021, p. 1, at https://www.sba.gov/sites/default/files/2021-04/SBA%20OIG%20Report%2021-13.pdf (hereinafter SBA, OIG, *Management Alert Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*).

[37] Before awarding a SVOG grant, the SBA reviews the applicant's risk using factors such as the applicant's financial stability, history of unsatisfactory performance, history of fulfilling the conditions of prior grants, and other evidence of responsibility. See SBA, "Applications for New Awards; Shuttered Venue Operators Grants (SVOG)," 86 *Federal Register* 16274, March 26, 2021.

[38] SBA, OIG, *Management Alert Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, p. 3.

> Office of Disaster Assistance] set a maximum number of 10 audits, despite program officials' estimates that the majority of grant recipients would be in the low-risk level. Based on this framework, ODA's audit plan exposes billions of dollars to potential misuse of funds because the bulk of grant funds will not be subject to a reasonable degree of scrutiny.[39]

The OIG recommended that the SBA "reassess the audit risk plan to identify vulnerabilities, commensurate with the expected volume of applications and average award amount, to strengthen internal controls and reduce rise of misuse of federal funds."[40] The OIG's management alerts do not require, and typically do not include, a written response from the SBA. As a result, the SBA's rationale for, defense of, or reconsideration of its planned award payment schedule and auditing framework was not presented in the OIG's report.

# Concluding Observations

The SVOG program marks a departure from the typical structure of the SBA's current programs. The SBA has relatively little experience, let alone systems in place, to administer a grant program to a large number of for-profit and nonprofit entities. The SBA's programs have typically been targeted to "small business concerns," as defined by the Small Business Act and implementing regulations. In contrast, the SVOG uses unique sets of eligibility standards that are not tied to the industry-specific size standards used in the SBA's business loan programs. In addition, the SBA's programs have typically catered to all small businesses, regardless of industry. The SVOG could represent a shifting congressional interest in having the SBA target assistance at meeting the needs of specific industries in economic distress.

Over the coming months, congressional oversight will, most likely, focus on the SBA's implementation of the SVOG program and eligibility questions. As time passes, increased attention is likely to be focused on fraud detection and prevention and program performance. The SBA's reporting requirements will provide Congress information related to the agency's efforts to detect, prevent, and prosecute fraudulent behaviors. The reporting requirements will also provide information related to program outputs, such as the total number of initial and supplemental grants approved and disbursed and grant recipients. It remains to be determined whether Congress will receive useful information for measuring program outcomes, such as how many jobs the grants helped to create or retain, their impact on venue survivability and profit growth, and their impact on the artists who rely on these venues for their livelihoods.

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[39] SBA, OIG, *Management Alert Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, p. 3.

[40] SBA, OIG, *Management Alert Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, p. 6.

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