

Coronavirus Stimulus Relief Funding for Public Restrooms

SVO

Economic Aid to Hard-Hit Small Business, Nonprofits, and Venues Act:
Grants Available for Shuttered Venue Operations

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Executive Summary

The Consolidated Appropriations Act, 2021 (CAA) provided \$900 billion in new COVID-19 relief funding and was signed into law on December 27, 2020. Title III of the CAA, entitled Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, introduced a new \$15 billion grant program to be administered by the U.S. Small Business Administration (SBA). This program offers critical support for the nation's performing art venues, movie theatres, and museums.

Eligible applicants may qualify for Shuttered Venue Operator (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 50 or fewer full-time employees.

Disclaimer: The information and materials contained in this document are for informational and educational purposes only and shall not be construed or considered as legal advice. Consult an experienced attorney for specific questions and answers. Information included is up to date as of February 3, 2021.

Who Is Eligible to Apply?

To be eligible to receive an SVO Grant, an entity or an individual must fit within one of the following categories:

(i) **Live Venue Operator or Promoter, Theatrical Producer, or Live Performing Arts Organization Operator**

- a. Having a principal business activity of organizing, promoting, producing, managing or hosting live concerts, comedy shows, or theatrical productions or other events by performing artists for which: (1) a cover charge is applied (through ticketing or front door entrance fee) and (2) performers are paid in an amount that is based on a percentage of sales, a guarantee or other mutually beneficial formal agreement; and the business generates at least 70% of revenue through ticket sales, production fees/reimbursements, nonprofit educational initiatives, or the sale of event food, beverages, or merchandise; OR
- b. Having a principal business activity of making tickets available for purchase by the public at least 60 days in advance of live concerts, comedy shows, theatrical productions, or other qualifying events for which performers are paid in an amount that is based on a percentage of sales, a guarantee, or another mutually beneficial formal agreement.

(ii) **Relevant Museum Operator** – An individual or entity that operates a public, tribal, or private nonprofit agency or institution organized on a permanent basis for essentially educational, cultural heritage, or aesthetic purposes.

(iii) **Motion Picture Theatre Operator** – A for-profit, nonprofit, or government-owned entity that has its principal business activity as the ownership or operation of at least one place of public accommodation for the purpose of showing movies for a fee.

(iv) **Talent Representative** – A person or entity that is an agent or manager that: (1) has 70% of its operations involving representing or managing artists and entertainers; (ii) books or represents musicians, comedians, actors, or similar performing artists primarily at live events in venues or at festivals; and (iii) such performers are paid in an amount that is based on the number of tickets sold, or a similar basis such as entrance fees.

Additional Eligibility Criteria for All Applicable Categories of Individuals/Entities

In addition to being within one of the above categories, an entity or individual must also meet the following criteria to be eligible for an SVO Grant:

- Must have been “fully operational” as of February 29, 2020.
- Must have gross revenue for a calendar quarter during 2020 that was at least a 25% reduction in comparison to the gross revenue for the same calendar quarter in 2019.
- As of the date of receipt of the SVO Grant, must be open or intend to reopen.
- Must not have received a PPP loan **after** December 27, 2020.

Venue Requirements

In addition to the above, the venues involved in the entity’s operations must meet the following requirements:

- (i) For **Live Venue Operator or Promoter, Theatrical Producer, or Live Performing Arts Organization Operator** and for **Talent Representatives** in regard to the venues at which the artists/entertainers represented or managed perform, the Venues must:
 - a. Contain a defined performance and audience space, mixing equipment, a public address system, and a lighting rig;
 - b. Hire at least one individual to do at least two of the following activities: (1) sound engineer; (2) booker; (3) promoter; (4) stage manager; (5) security personnel; (6) box office manager;
 - c. Have paid tickets or cover charges to attend most performances;
 - d. Pay artists “fairly” (i.e., artists do not play solely for free or for tips);
 - e. Market performances (in print, online, mass media, or on social media); and
 - f. Solely for nonprofit venues that produce free events, produce events managed primarily by paid employees and not volunteers.
- (ii) For **Motion Picture Theatre Operators**, the motion picture theatre must:
 - a. Have at least one auditorium that includes a movie screen and fixed audience seating;

- b. Have a projection booth (or other space) with at least one projector;
 - c. Have paid ticketing; and
 - d. Market movies (in print, online, mass media, or on social media).
- (iii) For **Relevant Museum Operators**, the relevant museum must have:
- a. Been serving as a relevant museum as its principal business activity;
 - b. Indoor exhibition space that is a component of the principal business activity and which has been subject to pandemic-related occupancy restrictions; and
 - c. At least one auditorium, theatre, or performance, or lecture hall with fixed audience seating and regular programming.

How Much is Available?

Initial Grants

Grant amounts will be either:

- For an eligible entity in operation on January 1, 2019, SVO Grants will be for an amount equal to 45% of 2019 gross earned revenue OR \$10 million, whichever is less.
- For an eligible entity that began operation **after** January 1, 2019, grants will be for six times the average monthly gross revenue for each full month the entity/individual was in operation during 2019 OR \$10 million, whichever is less.

Note that prior money received under CARES is not counted as revenue in either of the above calculations. Additionally, the SBA will use the accrual method of accounting when determining revenue.

Supplemental Grants

Supplemental Grants may also be available **if**, by April 1, 2021, first quarter gross revenues are not more than 30% of the revenues attributed to the first calendar quarter in 2019.

If an individual/entity is eligible for a Supplemental Grant, the amount available is 50% of the previously issued Grant.

The combined total of both Initial and Supplemental Grants cannot exceed \$10 million.

How to Apply and When?

As of the date of this publication, the SBA is in the process of setting up the Grant program and is not yet accepting applications. When the SBA applications are available, it is expected that they will be published on the following SBA website: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/shuttered-venue-operators-grant>.

Priority of Grant Distribution

Once the program commences, SVO Grants are to be allocated in the order of priority laid out in the Act. Up to 80% of the funds appropriated to the Grant program may be allocated to Initial Grants made to applicants within the 28-day priority as described below:

- **First 14-day period (first priority)** – the SBA may only award Grants to otherwise eligible applicants with revenue for the period from April 1, 2020 through December 31, 2020 that is not more than 10% of the applicant’s revenue during the same period of 2019.
- **Following 14-day period (second priority)** – the SBA may only award Grants to otherwise eligible applicants with revenue for the period of April 1, 2020 through December 31, 2020 that is not more than 30% of the applicant’s revenue during the same period in 2019.
- **Beginning 28-days into the program** (after the expiration of the two 14-day periods described above) – the SBA will give priority to individuals/entities with revenue for the period of April 1, 2020 through December 31, 2020 that is not 75% or more than the applicant’s revenue during the same period in 2019.
- **Supplemental Funding** – Recipients of first and second priority rounds that meet the criteria for a Supplemental Grant (as described above eligibility cannot be determined earlier than April 1, 2021).

Priority for Small Businesses

In addition to the priority periods, there is an added \$2 billion in appropriated funds for the first 60-days of the program for grants to eligible individuals/entities with 50 or fewer full-time employees¹.

¹For purposes of determining full-time employees (FTE), an employee that works more than 30 hours during a regular work week counts as 1 FTE. An employee that works 10-30 hours per week counts as one-half (0.5) of an FTE.

What Can the SVO Grant Be Used For?

Grant proceeds **may** be used for the following specific expenses, which include:

- **Covered worker protection expenditures** – as defined in the PPP, operating or **capital expenditures to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration**, or any equivalent requirements established or guidance issued by a State or local government beginning on March 1, 2020, such as ventilation systems, physical barriers, or an expansion of indoor, outdoor, or combined business space. *(See below section entitled “Sloan Products for COVID-19 Infection Control” for a list of products to assist with worker protection and minimizing the risk of contagious infection/disease spread.)*
- **Payroll costs** – as defined in the PPP, limited to those employees with a principal residence in the U.S.
- **Rent payments** – as defined in the PPP, any rent obligation under a leasing agreement in effect before February 15, 2020.
- **Utility payments** – as defined in the PPP, payment for electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.
- **Scheduled mortgage/debt payments** (not including prepayment of principal) on any indebtedness incurred in the ordinary course of business prior to February 15, 2020.
- **Payments to independent contractors** (not to exceed \$100k in annual compensation per contractor).
- **Other ordinary and necessary business expenses**, including:
 - Maintenance costs;
 - Administrative costs (including fees and licensing);
 - State and local taxes and fees;
 - Operating leases in effect as of February 15, 2020;
 - Required insurance payments; and
 - Advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production. (May not be primary use of funds.)

Grant proceeds **may not** be used to:

- Buy real estate
- Make payments on loans originated after February 15, 2020
- Make investments or loans
- Make contributions or other payments to, or on behalf of, political parties, political committees, or candidates for election

Sloan Products for COVID-19 Infection Control

“Covered worker protection expenditures,” as referenced in the above section detailing what an SVO Grant can be used for, includes those products designed to assist with COVID-19 infection control. Health experts are united in the position that appropriate public health precautions to mitigate the spread in public facilities includes touchless features on doors and in restrooms.

- [Touch-free Sensor Faucets](#)
- [Touch-free Sensor Soap Dispensers](#)
- [Sinks](#)
- [Mobile Handwashing Stations](#)
- [Touch-free Sensor Hand Dryers](#)
- [Touch-free Sensor Flushometers](#)
- [Manual to Sensor Flushometer Retrofits](#)
- [Water Closets and Urinals](#)