

## SMALL BUSINESS ADMINISTRATION

### ASSISTANCE LISTING 59.075 SHUTTERED VENUE OPERATORS GRANT

**IMPORTANT NOTE: The 2021 Compliance Supplement did not include a Part 4 section for the Shuttered Venue Operators Grant program. As noted in Part 1 of the Supplement, when auditing a major program that is not included in the Supplement, the auditor must follow the guidance in Part 7 and use the types of compliance requirements in Part 3 to identify the applicable compliance requirements that could have both a direct and material effect on the program. There is nothing to preclude an auditor from using this 2022 Compliance Supplement section as a resource when developing the approach for auditing this program in a single audit subject to the 2021 Compliance Supplement. However, there is also no requirement or expectation that auditors refer to or use this 2022 section for auditing the Shuttered Venue Operators Grant program for periods subject to the 2021 Compliance Supplement.**

**Also, this program funding was provided to both non-federal entities (e.g., states, local governments, or nonprofit organizations) and for-profit entities. The guidance in this section is only applicable for audits of non-federal entities. The Small Business Administration is developing separate audit requirements and guidance for audits of for-profit entities with SVOG awards which will be shared upon completion.**

#### I. PROGRAM OBJECTIVES

The Shuttered Venue Operators Grant (SVOG) program provides grant awards of up to \$10 million to support the ongoing operations of eligible live venue operators or promoters, theatrical producers, live performing arts organization operators, nonprofit museum operators, motion picture theater operators (including owners), and talent representatives who have experienced significant revenue losses because of the COVID-19 pandemic.

The SVOG program was created in Section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (part of HR 133 Consolidated Appropriations Act, 2021) signed into law on December 27, 2020, including \$15 billion in grants to operators of eligible shuttered venues. On March 11, 2021, the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, title V, sec. 5005) was enacted; it provided an additional \$1,249,500,000 in grants for eligible entities. Of this total grant funding, at least \$2 billion was reserved for applicants with up to 50 full-time employees.

#### II. PROGRAM PROCEDURES

The SVOG program provides awards to the following eligible applicant types:

- Live performing arts organization operator
- Live venue operator or promoter
- Motion picture theater operator (including owners)

- Nonprofit museum operators
- Talent representative
- Theatrical producer

During the application process, entities were required to select one applicant type when applying in order to account for applicant-type specific criteria. However, all applicants were expected to clearly present the financial and operational impact of the COVID-19 pandemic to confirm their eligibility for an award and establish their funding need. The maximum award amount (cumulative across all award decision types) is \$10 million. For affiliates, the maximum award is \$10 million per entity (no more than five entities per affiliate group for a cumulative total of \$50 million). Museum operator affiliate groups are unique in that in that there is a \$10 million cumulative award cap across all affiliated entities.

The SVOG program implemented four award decisioning processes, each with a separate notification. Through SVOG, a single entity could have received up to four different SBA Form 1222s or Notice of Award (NOA) documents. Each NOA issued supersedes any previous NOAs and serves as the principal award document. The NOA documents have version numbers 1–4 corresponding to the award decision made. The four award decision processes (in sequential order) include:

1. Initial Award – Award decision made based on initial application package (NOA Document #1). Recipients receiving an initial award were given a 12-month grant term (Budget Period - NOA Box 5) to spend award funds. Any applicant that was denied an initial award was given the opportunity to appeal their eligibility. If the decline decision was overturned, then the entity was given an initial award (NOA Document Version #1).
2. Reconsideration – Recipients meeting specific criteria were given the opportunity to request a second review of their initial award amount. If SBA adjusted the award amount, then the SBA issued a new NOA (NOA Document #2). If a grantee received a reconsideration award, the grant term remained 12 months.
3. Supplemental – Recipients meeting specific criteria were eligible to receive supplemental funding support awards. Recipients receiving a supplemental award were given an 18-month grant term commencing from the date of initial award issuance and received an updated NOA (NOA Document Version #3). SBA is allowing grantees that receive a supplemental award to spend all funds, both initial and supplemental phase awards, across the 18-month grant term. SBA also issued zero-dollar supplemental awards to permit qualifying entities to extend their grant term by six months. In addition to the 18-month grant term, the issuance of a supplemental grant award also provides grantees with a six-month expenditure period extension, specifically extending the end date to incur eligible expenses from December 31, 2021 to June 30, 2022.
4. Reconsideration 2.0 – SBA opened a final award decision invitation to all grantees to request a final review of their funding need and eligibility for additional award funds. If a reconsideration 2.0 award is issued a new NOA is created (NOA Document Version #4).

The SVOG initially commenced with a multiple disbursement process, but quickly changed to a single disbursement of funds. Therefore, entities receiving funding from multiple award decisions were issued a single disbursement of funds in line with each award decision.

Some entities who received SVOG awards may have also received Paycheck Protection Program (PPP) loans. The American Rescue Plan Act of 2021 modified and amended the PPP program. Prior to the amendments of the American Rescue Plan Act of 2021, entities that received SVOG awards were ineligible to apply and receive PPP loans. After the amendments of the American Rescue Plan Act of 2021, the SVOG program deducted all PPP loans issued a loan number on or after December 27, 2020, regardless of repayment or non-use of those PPP funds. See the October 20, 2021, SVOG FAQ, #102 for more information.

### **Source of Governing Requirements**

The SVOG program was created by Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (part of HR 133 Consolidated Appropriations Act, 2021) signed into law on December 27, 2020. This Act provided the initial funding and program eligibility qualifications utilized to establish the award decisioning process and build program parameters. On March 11, 2021, the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, title V, sec. 5005) provided additional program funding and clarifications on program design and implementation. All grantees receiving awards from the SVOG program are expected to utilize funding consistent with the terms and conditions of the program and 2 CFR Part 200.

### **Availability of Other Program Information**

Shuttered Venue Operators Grant Website

<https://www.sba.gov/funding-programs/loans/covid-19-relief-options/shuttered-venue-operators-grant>

Shuttered Venue Operators Grant Portal

<https://www.svograntportal.sba.gov/s/>

A number of documents posted on SVOG's website contain information pertinent to program. They are:

1. Shuttered Venue Operators Grant program website – [www.sba.gov/svog](http://www.sba.gov/svog)
2. Post-application guidance (February 16, 2022) – <https://www.sba.gov/document/support-post-application-guidance-svog-applicants>
3. Frequently Asked Questions regarding SVOG (February 16, 2022) – <https://www.sba.gov/document/support-svog-post-award-frequently-asked-questions>
4. Frequently Asked Questions regarding SVOG (October 10, 2021) – <https://www.sba.gov/document/support-faq-regarding-shuttered-venue-operators-grant-svog>

If there are specific questions regarding the SVOG program, e-mail [SVOGrant@sba.gov](mailto:SVOGrant@sba.gov).

### III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	N	N	N	N

#### A. Activities Allowed or Unallowed

##### 1. *Activities Allowed*

See Pub. L. No. 116-260 Title III, Sec. 324 (d)(2)(B)(i-viii), **SVOG FAQs, and Post-Award FAQs.**

Grantees are generally encouraged to use funds to reimburse or pay for ordinary and necessary business expenses to reopen or keep open a business that was shuttered during the COVID-19 pandemic (specific allowable uses listed below). As previously described, grantees affirm allowable use by submitting budgets to SBA showing distribution of award funds across the eight allowable budget categories. After the SBA completes the four award decisions outlined above, all grantees are required to submit a finalized budget to SBA through the SVOG Portal, which will outline the intended use of funds for the award and establish the budget basis for monitoring and closeout review. The request for a finalized

budget response is expected to be issued to grantees on a rolling basis beginning in February 2022.

SVOG award funds may be used for any of the following:

- a. Payroll costs;
- b. Payments on any covered rent obligation;
- c. Any covered utility payment;
- d. Scheduled payments of interest or principal on any covered mortgage obligation (which shall not include any prepayment of principal on a covered mortgage obligation);
- e. Scheduled payments of interest or principal on any indebtedness or debt instrument (which shall not include any prepayment of principal) incurred in the ordinary course of business that is a liability of the eligible person or entity and was incurred prior to February 15, 2020;
- f. Covered worker protection expenditures;
- g. 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; and
- h. Other ordinary and necessary business expenses, including—
  - (1) Maintenance expenses,
  - (2) Administrative costs, including fees and licensing costs,
  - (3) State and local taxes and fees,
  - (4) Operating leases in effect as of February 15, 2020,
  - (5) Payments required for insurance on any insurance policy, and
  - (6) Advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production, concert, exhibition, or comedy show, except that grant funds may not be used primarily for such expenditures.

Entities that received SVOG awards may have also received funding from other Federal sources, for example, PPP loans, the Economic Injury Disaster Loan (EIDL), or the Employee Retention Credit (ERC). SVOG awards should only

reimburse costs that have not already been reimbursed (or received a credit) by other funding sources. When an entity takes into account only a portion of an employee's salary as "qualified wages" for the purpose of the ERC or other federal funding, entities may use SVOG funds to pay only the remaining portion of the employee's salary. **Additional clarification on allowable use of funds are provided in the SVOG FAQs at <https://www.sba.gov/document/support-faq-regarding-shuttered-venue-operators-grant-svog> and the Post-Award FAQs at <https://www.sba.gov/document/support-svog-post-award-frequently-asked-questions>.**

As noted above, the SVOG program establishes several cost items as allowable up to a spending cap. Two allowable cost examples with caps include:

- To pay 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; and
- To pay advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production, concert, exhibition, or comedy show, except that grant funds may not be used primarily for such expenditures.

## 2. *Activities Unallowed*

See Pub. L. No. 116-260, Title III, sec. 324 (d)(3)(A-E), **SVOG FAQs, and Post-Award FAQs**

SVOG award funds may **not** be used for any of the following:

- a. To purchase real estate;
- b. For payments of interest or principal on loans originating after February 15, 2020;
- c. To invest or re-lend funds;
- d. For contributions or expenditures to, or on behalf of, any political party, party committee, or candidate for elective office;
- e. For pre-payment of principal on any mortgage obligation, indebtedness, or debt instrument origination on or before February 15, 2020; or
- f. To purchase or pay loans for items of prurient sexual nature.

## **B. Allowable Costs/Cost Principles**

SVOG was structured as a grant program and therefore all recipients must implement their awards and spend funds consistent with the *Code of Federal Regulations*, Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. However, when the program statute allows the use of SVOG award funds for a specific use beyond the scope of uses outlined in the Uniform Guidance, that use is allowed. Please refer to the SVOG Post-Award FAQs for examples.

The purchase of alcohol is generally prohibited with 2 CFR section 200.423. However, the SVOG program provides for federal award funds to be utilized for the purchase of alcohol in certain circumstances as outlined in the SVOG FAQs, No. 173. When considering the allowability of alcohol purchases with SVOG award funds, please review and adhere to the guidance on assessing “an ordinary and necessary business” expense as described in the FAQs and defined by the IRS in Publication No. 535.

The authorizing statute permits reimbursement of eligible and allowable costs dating back to March 1, 2020, which for some entities could be a period of one year or more prior to issuance of an initial SVOG award. Box 1 of the SVOG NOA document recognizes the authorizing statute and the authorizing statute serves as SBA’s basis for approving pre-award costs consistent with 2 CFR section 200.458. Please refer to FAQ No. 33 for additional information.

Grantees will submit a finalized budget to SBA in the first few months of 2022, which will establish the basis for monitoring and closeout. At closeout, grantees will provide a reconciliation of expenses by allowable budget category in response to the expense report action item. Grantees should maintain justification for any changes from the final budget to the expense report and maintain clear records of the costs charged to the SVOG award substantiating eligibility and allowability.

## **H. Period of Performance**

Recipients that receive an initial SVOG award will be able to spend award funds over a 12-month period (defined in NOA Box 5 as the *Budget Period*) after the award issuance date (defined in the most recent NOA Box 4 as the *Project Period*) for eligible and allowable costs incurred between March 1, 2020, and December 31, 2021. Recipients that receive a supplemental award will be able to spend all award funds (both initial and supplemental phase awards) received over an 18-month period (defined in most recent NOA Box 5 as the *Budget Period*) after the initial phase award issuance date (defined in the most recent NOA Box 4 as the *Project Period*) for eligible and allowable costs incurred between March 1, 2020, and June 30, 2022 (*Eligible Cost Period*).

Reconsideration awards made through the SVOG program do not impact the award expenditure or spend down dates, these dates are only determined by the issuance of an initial or supplemental award.