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Shuttered Venue Operators Grants

Frequently Asked Questions | January 2021



The Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (the Act), which provides \$900 billion in new COVID-19 relief funding, was signed on December 27, 2020. The Act, among other things, authorizes up to \$15 billion in grants to eligible live venue operators, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators or talent representatives to address the economic effects of the COVID-19 pandemic on certain live venues.¹

This series of frequently asked questions is intended to address questions most commonly raised with regard to Shuttered Venue Operators Grants.

1. Who is eligible to receive a Shuttered Venue Operators Grant?

In general, a business is eligible to receive a Shuttered Venue Operators Grant if it is a live venue operator or promoter, theatrical producer, live performing arts organization operator, a relevant museum operator, a motion picture theatre operator, or a talent representative that:

- ▶ Was fully operational on February 29, 2020
- ▶ Can demonstrate a 25% reduction from the gross earned revenue in at least one quarter in 2020 when compared to the same quarter in 2019

2. What types of entities are not eligible for a Shuttered Venue Operators Grant?

The following entities are not eligible:

- ▶ Entities that are majority owned or controlled by a public company
- ▶ Entities that are majority owned or controlled by an entity that received more than 10% of gross revenue from federal funding in 2019
- ▶ Entities that are majority owned or controlled by an entity that has two of the following qualities:
 - a. Owns or operates locations in more than one country
 - b. Owns or operates locations in more than 10 states
 - c. Employed more than 500 full-time employees as of February 29, 2020
- ▶ Entities that received a PPP loan after December 27, 2020
- ▶ Entities that offer live performances of a prurient sexual nature or derive more than a de minimis gross revenue through sale of products/services of a prurient sexual nature

3. Does the business need to be open at the time of the grant?

As of the date of the grant, the business must be open or intend to reopen and must meet certain venue-specific requirements.

4. Will the business be required to make any certifications regarding the necessity of the grant?

Yes, the recipient must certify that the uncertainty of current economic conditions makes the Shuttered Venue Operators Grant necessary to support ongoing operations.

¹ The Act also reauthorizes lending under the Paycheck Protection Program (PPP) through March 31, 2021; revises certain PPP provisions; expands the types of expenses eligible for loan forgiveness; and provides for a second round of loans for certain borrowers.



5. How do the SBA's affiliation rules apply to grant recipients?

The Act provides that each business entity of an applicant is treated as an independent, non-affiliated entity for purposes of the Shuttered Venue Operators Grant program. However, not more than five business entities of an eligible applicant that would be considered its affiliates under the SBA's affiliation rules may receive Shuttered Venue Operators Grants.

6. What is the difference between an initial grant and a supplemental grant under the Shuttered Venue Operators Grant program?

Initial grants – Subject to a \$10 million cap, the amount of an initial grant under the Shuttered Venue Operators Grant program is:

- ▶ For an eligible applicant that was in operation **on** January 1, 2019, equal to **45%** of the gross earned revenue of the entity during 2019
- ▶ For an eligible applicant that began operations **after** January 1, 2019, equal to six times the average monthly gross earned revenue for each full month of 2019 that the eligible applicant was in operation

Supplemental grants – Individuals or entities that receive an initial grant under the Shuttered Venue Operators Grant program may receive a supplemental grant if, as of April 1, 2021, the applicant's revenue for the first quarter of 2021 is not more than **30%** of the revenue for the first quarter of 2019. A supplemental grant will be equal to **50%** of an initial grant received by the applicant (subject to the total \$10 million cap on all Shuttered Venue Operators Grants).

Note: Supplemental grants cannot be administered until all applications for initial grants submitted within the Shuttered Venue Operators Grant program's first 60 days have been processed.

7. What is the maximum dollar amount a grant recipient may receive?

The total amount of Shuttered Venue Operators Grants that any individual applicant may receive (whether as an initial grant or when taken together with any supplemental grant) is capped at **\$10 million**.

Note: For relevant museum operators specifically, a relevant museum operator may not receive total grants in excess of \$10 million for all relevant museums operated by the operator.

Note: An applicant, together with its affiliates that receive grants, cannot collectively receive more than **\$60 million** in Shuttered Venue Operators Grants.

8. How will the disbursement of grant funds be prioritized and allocated to recipients?

The Act establishes a priority as to how the Shuttered Venue Operators Grants are allocated. Up to 80% of the funds appropriated for the Shuttered Venue Operators Grant program are allocated to initial grants made to applicants during the following periods:

- ▶ **First Priority** – During the first 14 days of the program, the SBA may only award grants to applicants with revenue for the period from April 1, 2020 through December 31, 2020, that is not more than 10% of such applicant's revenue during the same period of 2019 due to the COVID-19 pandemic (a 90% or more decline).



- ▶ **Second Priority** – During the next 14 days of the program, the SBA may only award grants to applicants with revenue for the period from April 1, 2020 through December 31, 2020, that is not more than 30% of such applicant’s revenue during the same period of 2019 due to the COVID-19 pandemic (a 70% or more decline).
- ▶ Thereafter, initial grants of any remaining funds can be made to all other eligible applicants.

Note: 80% of the amount designated for the Shuttered Venue Operators Grant program by the Act is allocated to the first two priority periods.

Note: In addition to these priority periods, there is a set-aside of \$2 billion of appropriated funds for the first 60 days of the program for grants to eligible applicants with 50 or fewer full-time employees. Any amount from the set-aside remaining after the 60-day period becomes available to all eligible applicants.

Note: For purposes of calculating revenue, an applicant’s revenue does not include amounts received under the CARES (Coronavirus Aid, Relief, and Economic Security) Act (as amended) (i.e., PPP loans or other funding), and the SBA is to use the accrual method of accounting.

9. What are the permitted uses for grant proceeds?

A recipient must use the grant funds for the following expenses: payroll costs, certain rental obligations, utility payments, mortgage obligations, worker protection costs, payments to certain independent contractors and ordinary/necessary expenses.

10. Can a grant recipient also receive a PPP Loan?

No, a recipient of a Shuttered Venue Operators Grant may not also receive a PPP loan after December 27, 2020.

11. What is the covered period for eligible costs/expenses?

Initial grants may be used for approved costs incurred between **March 1, 2020** and **December 31, 2021**.

Supplemental grants may be used for approved costs through **June 30, 2022**.

Note: Any initial grant proceeds 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.

12. Will there be additional guidance issued regarding the Shuttered Venue Operators Grant program.

Yes, the Act requires that the SBA issue regulations regarding the Shuttered Venue Operators Grant program within 10 days of enactment of the Act. We expect the regulations shortly.

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