

## SBA LIVE VENUE GRANT PROGRAM

On December 21, 2020, Congress passed the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (COVID relief law) to provide targeted relief to small businesses and their employees in the entertainment industry struggling as a result of the COVID-19 pandemic.

**\*\*\* THIS IS A NEW GRANT PROGRAM \*\*\***

**The COVID relief law provides \$15 billion nationwide to a new Small Business Administration (SBA) grant program for live venues impacted by the public health crisis.**

**Eligible grant recipients include live venue operators, promoters or theatrical producers, independent movie theatre operators, museum operators, and talent representatives. Of the total amount, \$2 billion is set aside for eligible entities that employ fewer than 50 full-time employees. Grants are awarded by the SBA, which will make application information available as soon as possible. Check back for updates.**

**\*\*\*READ ON FOR ELIGIBILITY INFORMATION\*\*\***

- All entities must have been fully operational on February 29, 2020.
- Entities must be independent—i.e., they must not be majority owned or controlled by an entity that:
  - Issues publicly listed securities;
  - Owns or operates venues in more than one country, or in more than 10 states (including the District of Columbia, Puerto Rico, and any other territory or possession of the United States);
  - Employs more than 500 people on a full-time basis; or
  - Receives more than 10 percent of gross revenue from federal funding.
- Live venue operators, promoters, and theatrical producers must—as a principal business activity—organize, promote, produce, manage, or host live concerts, comedy shows, theatrical productions, or other events by performing artists.
  - They must be organizing, promoting, producing, managing, or hosting future live events.
- Independent movie theaters must be open or intend to reopen.
- Museum operators must be open or intend to reopen.
- Talent representatives must be representing or managing artists and entertainers.
- Entities that receive a grant under this program are **not** eligible to apply for a Paycheck Protection Program loan after enactment of the COVID relief law.

### **Grant Details**

#### **First Priority Grants**

During the first two weeks in which SBA awards these grants, they will only be awarded to entities with current-quarter revenue that is not more than 10 percent of their revenue from the corresponding calendar quarter in 2019.

- For seasonal employers, take the consecutive 12-week period of 2020 that corresponds to the highest-revenue 12-week period of 2019—the revenue for the 2020 period cannot exceed 10 percent of revenue from the 2019 period.

## **Second Priority Grants**

During the two-week period immediately following that, SBA will only award grants to entities with current-quarter revenue that is not more than 30 percent of their revenue from the corresponding calendar quarter in 2019. The same calculation for season employers applies here (revenue for the 2020 period cannot exceed 30 percent of revenue for the 2019 period).

### **Grant Amount**

If the entity or person began operations on or before January 1, 2019, the grant is the lesser of:

- 45 percent of gross earned revenue during 2019;
- 85 percent of operating expenses during either 2018 or 2019 (the borrower elects); or
- The difference between \$10 million and the total amount of Paycheck Protection Program loans the entity or person received.

If the entity began operations after January 1, 2019, the grant is the lesser of:

- 45 percent of average monthly gross earned revenue for each full month of 2019 in which the entity was operational, multiplied by 6; or
- 85 percent of average monthly operating expenses for each full month of 2019 in which the entity was operational, multiplied by 6.
- The difference between \$10 million and the total amount of Paycheck Protection Program loans the entity or person received.

### **Supplemental Grants**

SBA may make a supplemental grant to an entity that already received a first- or second-priority grant if, as of December 31, 2020, the entity's revenue for the most recent calendar quarter is less than 20 percent of revenue for the corresponding quarter of 2019. Supplemental grants are the lesser of:

- 50 percent of the initial grant received; or
- The difference between \$2 million and the total amount of Paycheck Protection Program loans the entity or person received.

### **Maximum Grant Amount**

In all cases, the total amount of grants received (including supplemental grants) may not exceed \$10 million.

### **Timing Considerations**

- Grant funds must be used for costs incurred between March 1, 2020, and December 31, 2021.
  - If an entity receives a supplemental grant, amounts received under either the initial or supplemental grant may be used for costs incurred through June 30, 2022.
- Unless they receive an extension for a supplemental grant, recipients must return any unused funds to the SBA if they are not expended within a year of disbursement. If they receive a supplemental grant, recipients have 18 months from the date of their first grant award to spend the funds.

### **Use of Funds**

Entities may use the funds for:

- Any allowable use of proceeds for PPP loans;

- Advertising, production transportation, and capital expenditures related to producing a theatrical production, concert, or comedy show;
- Scheduled principal and interest payments on debt (including mortgages) entered into as of February 15, 2020;
- 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; or
- Other ordinary and necessary business expenses.

Entities are not permitted to use funds:

- To purchase real estate;
- For payments of interest or principal on loans originated after February 15, 2020;
- To invest or re-lend funds; or
- For contributions or expenditures to, or on behalf of, any political party, party committee, or candidate for elective office.

### **Eligible Grant Recipients**

#### **Eligible Live Venues**

Live venues are eligible if:

- They have a defined performance and audience space;
- They have mixing equipment, a public address system, and a lighting rig;
- They engage one or more individuals to carry out not less than two of the following roles:
  - Sound engineer;
  - Booker;
  - Promoter;
  - Stage manager;
  - Security personnel;
  - Box office manager;
- There is a paid ticket or cover charge to attend most performances, and artists are paid fairly or do not play for free or solely for tips, except for fundraisers or similar charitable events;
- Performers are 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;
- For a venue owned or operated by a nonprofit that produces free events, the events must be produced and managed by paid employees, not by volunteers;
- Performances are marketed through listings in printed or electronic publications, on websites, by mass email, or on social media; and
- At least 70 percent of revenue is generated through cover charges or ticket sales, production fees or production reimbursements, nonprofit educational activities, or the sale of event beverages, food, or merchandise.

#### **Eligible Independent Movie Theaters**

An independent movie theater (or theaters) are eligible if they have the following characteristics:

- 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;
- A paid ticket charge; and
- Motion picture exhibitions that are marketed through showtime listings in printed or electronic publications, on websites, by mass mail, or on social media.

**Eligible Museum Operators**

- Operate one or more museums;
- Had an endowment of not more than \$75 million as of December 31, 2019.
- The museum(s) for which the operator is seeking a grant have the following characteristics:
  - Serves as a museum as its principal business activity;
  - Indoor exhibition spaces that are a component of the principal business activity and which have been subjected to pandemic-related occupancy restrictions; and
  - At least one auditorium, theater, or performance or lecture hall with fixed audience seating and regular programming.

**Eligible Talent Representatives**

- An agent or manager that is engaged in representing or managing artists and entertainers as at least 70 percent of their operations;
- Books or represents musicians, comedians, actors, or similar performing artists primarily at live events in venues or at festivals; and
- Represents performers (as described in the previous bullet) that are paid in an amount based on the number of tickets sold, or a similar basis.
- This includes agents or managers who operate for profit or as nonprofits; are government-owned; are corporations, limited liability companies, partnerships, or operated as sole proprietorships.