

Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program

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Office of Inspector General

U.S. Small Business Administration

MEMORANDUM

Date: April 7, 2021
TO: Isabella Casillas Guzman
Administrator
FROM: Hannibal “Mike” Ware
Inspector General

SUBJECT: Serious Concerns About SBA’s Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program

The Office of Inspector General (OIG) is issuing this Management Alert regarding serious concerns with the control environment and the tracking of performance results in the Shuttered Venue Operators Grant (SVOG) program requiring immediate attention and action.

Last April we issued a white paper¹ informing the SBA about the risk of Coronavirus Disease 2019 (COVID-19) pandemic funds not being used for their intended purpose and therefore not achieving entrepreneurial development program goals and objectives. SBA should consider the risks and lessons learned as it implements a new program under a compressed timeline providing disaster assistance grants to eligible small businesses under the SVOG program. Expedited management action would improve SBA’s oversight of the program and ensure it meets the intended results when administering this \$16.25 billion grant program.

Background

Congress enacted the SVOG program on December 27, 2020 and provided \$15 billion for SBA to administer grants to shuttered venues as part of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act.² Congress provided an additional \$1.25 billion in

¹ SBA OIG Report 20-13, White Paper: Risk Awareness and Lessons Learned from Prior Audits of Entrepreneurial Development Programs (April 23, 2020).

² Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, P.L. 116-260, Section 323, Division N, Title III (2020).

funds through the American Rescue Plan Act on March 11, 2021, totaling \$16.25 billion authorized for the program.³

The SVOG program provides grants to eligible entrepreneurs and entities, including venue operators, theatrical producers, museum operators, talent representatives, and other art-related specialties in the live arts and entertainment industry, which was hard hit during the pandemic. These small businesses or entities are required to have been fully operational as of February 29, 2020, had a significant reduction in revenue because of the pandemic, and are either open or intending to reopen for business, among other eligibility requirements established in the statute.⁴

As part of SBA's mission, the Office of Disaster Assistance (ODA) is responsible for providing financial assistance to private and nonprofit businesses that suffered economic hardship during a disaster. The Economic Aid Act authorizes the Associate Administrator of ODA to coordinate and formulate policies for the SVOG. The applicant must submit a good faith certification that the grant funds are being requested because of COVID-related economic conditions and that the funds will be used to support the ongoing operations of the individual or entity. The grants will be prioritized based on a revenue loss calculation and are capped at \$10 million.⁵

The grant recipient may use the funds for payroll costs, rent, utility payments, mortgage principal and interest, business debt principal and interest, covered worker protection, independent contractors, other ordinary and necessary business expenses, and administrative expenses. Prohibited expenses include real estate purchases, interest or principal loan payments on loans originated after February 15, 2020, investments or re-lending, political contributions or expenditures, or any other use as may be prohibited by the Administrator.

The Economic Aid Act also requires increased oversight over these grants. This additional oversight includes documentation to support the use of funds, employment record retention for a 4-year period, and other supporting documentation for a 3-year period.⁶

SBA announced that it will begin accepting and processing applications for the SVOG program on April 8, 2021.

Identified Risks and Vulnerabilities

In light of having to plan the program under tight constraints, it is imperative that SBA design the program in a way that provides for a balanced audit risk framework, consistent

³ American Rescue Plan Act of 2021, P.L. 117-2, Section 5005 (2021).

⁴ Economic Aid Act, Section 324(a)(1).

⁵ Economic Aid Act, Section 324(b).

⁶ Economic Aid Act, Section 324(e).

application of federal regulations for grants management, clearly defined performance goals, and adequate resources to effectively administer the program.

ODA’s Planned Framework for Disbursement and Audit Risk Factors

ODA considered risk factors such as the entity type, venue type, and dollar amounts proposed. Table 1 outlines ODA’s payment schedule for SVOG recipients.

Table 1. ODA’s Planned Risk Assessment for the SVOG Program 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: OIG generated based on ODA disbursement schedule

In the Notice of Funding Opportunity, ODA estimates that SBA will receive 15,000 applications and that the average size of the award will be \$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. However, 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.

The Economic Aid Act requires SBA to submit the policies and procedures used to conduct oversight and audits of these grants, and the metrics used to determine which grants will undergo audit. ODA based its audit plan on the risk level it established for the payment distributions and financial reporting requirements for the grant recipients. 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 set a maximum number of 10 audits, despite program officials’ estimates that the majority of the 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.

Consistent Notifications for Compliance Requirement Needed

In SBA's Notice of Funding Opportunity published in the Federal Register on March 26, 2021, SBA cites 2 CFR 200 as the applicable regulation for this federal award.⁷ Federal regulations in 2 CFR 200 establish uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities and stipulates federal awarding agencies must not impose additional or inconsistent requirements.

However, as listed in beta.sam.gov, assistance listing Catalog of Federal Domestic Assistance (CFDA) Number 59.075, last updated February 16, 2021, SBA provided the following additional information under the policy requirements for the SVOG program:

The Uniform Guidance primarily applies only to nonprofit entities that either state, local government, Indian tribes, institution of higher education (IHE), or a nonprofit organization that carries out a Federal award as a recipient or subrecipient. The Uniform Guidance at 2 CFR 200 will not apply to the majority of the SVO recipients. In such case that the recipient is a non-profit, the SBA will apply the requirements of 2 CFR 200. If the awardee is a for-profit entity, subparts A through E are not required and will not be applied. SBA will, however, comply with any audit requirements in subpart F that apply to the for-profit community.⁸

The conflicting information ODA provided to program applicants could misrepresent accountability and transparency expectations for the grant recipients. Establishing accurate criteria at the onset of the program is instrumental in setting expectations to ensure that grant funds are only expended for allowable, allocable, and reasonable expenses. Defining clear rules for accountability will assist in protecting federal grant funds at every stage of the grant cycle.

Program officials told us that they plan to hold all grant recipients, regardless of the entity's business structure, accountable for complying with 2 CFR 200 where applicable and plan to update the CDFA program listing. It is imperative that this change is made.

In addition, the American Rescue Plan provided supplemental funding to the SVOG program that was included in the Economic Aid Act. On March 19, 2021, the Office of Management and Budget (OMB) provided additional guidance for administering the American Rescue Plan Act by issuing Memorandum M-21-20 - Promoting Public Trust in the Federal Government through Effective Implementation of the American Rescue Plan Act and Stewardship of the Taxpayer Resources.⁹ The guidance emphasizes using 2 CFR 200 to the maximum extent possible to provide the highest integrity in financial assistance management. The need for accountability and transparency in federal government

⁷ Applications for New Awards; Shuttered Venue Operators Grants (SVOG), 86 Fed. Reg. 16270, 16270-16272 (March 26, 2021).

⁸ [Beta.sam.gov](https://beta.sam.gov). (n.d.). Retrieved April 5, 2021.

⁹ Office of Management and Budget Memorandum, M-21-20, Promoting Public Trust in the Federal Government through Effective Implementation of the American Rescue Plan Act and Stewardship of the Taxpayer Resources, Washington, DC, 2021, p. 2.

spending is critical in that the American Rescue Plan Act, Section 5005 added an additional \$1.25 billion to the original \$15 billion in SVOG funding.

Defined Performance Goals Needed

On March 26, 2021, SBA announced the funding opportunity for the SVOG program in the Federal Register, but it did not include performance goals for the program or establish performance requirements for the recipients. Federal regulations require that federal awards must include performance goals.¹⁰ OMB stresses that grant programs should be planned and designed with clear goals and objectives. Where appropriate, these goals should include the public impact of the awarded funds. Reporting requirements must be clearly documented. The agency must provide a standard against which non-federal entity performance can be measured, such as the estimated number of jobs saved or created, tax revenue generated, or entity operational status. Program officials told us that the authorizing legislation for the program did not require SBA to establish performance measures. Program officials explained they tried to meet the federal standards for grants while also creating an aid distribution program.

While the Economic Aid Act did not specifically mandate that the SBA establish performance goals, it did not exempt the agency from adhering to the requirements of 2 CFR 200. Without specific grantee performance reporting requirements, the stakeholders will disburse \$16.25 billion without knowing whether the program successfully made an impact on the small businesses in the live arts and entertainment industry that were impacted by the pandemic. This runs counter to recent revisions to 2 CFR 200, effective November 12, 2020, that emphasized the need for performance goals to improve stewardship of grant funds.

Adequate Resources to Effectively Administer the Program Needed

Approving and awarding federal funds is an inherently governmental function. According to SBA's federal assistance directive, only warranted grant officers can commit the agency to enter into a federal assistance agreement, such as a grant, that obligate federal funds. The federal assistance directive also specifies that the Director of the Office of Grants Management appoints all grants management officers and makes decisions on the respective warrant level based on the training, qualifications, and experience of the grants officer. However, on March 10, 2021, the acting Chief Operating Officer waived the standard experience, training, and certification requirements and the agency grants training plan for administering all existing and future emergency grant programs related to the impact of COVID-19. SBA established these requirements and the training plan to address the systemic weaknesses OIG found in prior audits of SBA's grants management.¹¹

Currently, the program office has one designated official and its staff are on temporary detail. At this time, SBA has not formalized a plan for staffing this office relative to the

¹⁰ 2 CFR § 200.210

¹¹ Economic Aid Act, Section 324(f)(1)(A), (B).

volume of applications expected. The agency has also not defined the organizational structure for administering the program.

SBA expects the majority of the awards made under this program to be \$1 million or less. Based on the current risk model, these awards would be disbursed as lump-sum advance payments with minimal reporting requirements and agency oversight. It is important that the application reviewing officials use careful scrutiny to review the applicants' proposed budgets to ensure funds will be used for allowable, allocable, and reasonable expenses. OIG believes that SBA does not have the staff necessary to provide effective oversight over the SVOG program. Insufficient oversight of the SVOG program increases the risk that funds will be misspent, inadequately monitored, or improperly paid.

Conclusion

SBA should take immediate action to reduce or eliminate risks by strengthening existing controls and implementing internal controls to address potential misuse of federal funds. Strong controls will ensure the SVOG program can effectively help eligible small business owners and entities that have suffered economic injury because of the COVID-19 pandemic.

Suggested Actions for SBA

To address serious concerns and potential deficiencies in internal controls of the Shuttered Venue Operators Grant program, we suggest the Administrator:

1. 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 risk of misuse of federal funds.
2. Clearly establish 2 CFR 200 criteria for the program to ensure compliance during the implementation and oversight phases.
3. Implement required performance measures to determine the impact of program funds.
4. Ensure sufficient resources are available to implement and oversee the SVOG program.

Disclaimer

We prepared this management alert to bring to SBA's attention serious issues with the SVOG program that were identified during our initial review of SBA's implementation of the program. We reviewed federal publications, regulations, and applicable guidance, as well as SBA's communications to the public regarding the program. We also met with ODA officials to discuss the initial plans in rolling out the SVOG program.

Our ongoing review is being conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) *Quality Standards for Inspection and Evaluation*. We prepared this management alert in alignment with OIG's quality control standards and the CIGIE *Quality Standards for Federal Offices of Inspector General*, which require that we conduct our work with integrity, objectivity, and independence.

If you have any questions, please contact me or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6586.

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