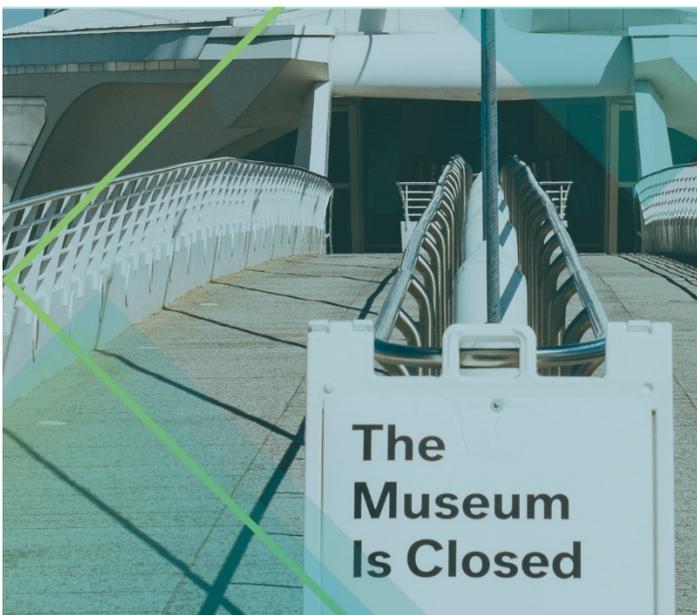


# MARCUM

Raffa

Marcum's Nonprofit  
&  
Social Sector Group



**COVID RELIEF**

**QUESTIONS & ANSWERS**

**FOR MUSEUMS &  
CULTURAL INSTITUTIONS**

▶ **Can you apply for both SVOG and ERTC?**

Yes

▶ **How does the ERTC interact with the SVOG?**

▶ **Will the SVOG be affected by the ERTC?**

Probably much like how ERTC interacts with PPP - i.e., no double dipping on wages, but both can be taken advantage of if there are enough eligible wages.

▶ **Is the SVOG requirement a reduction in revenue? After the two 14 day periods can anyone apply who qualifies?**

In order to be eligible, you just need to have a 25% reduction in revenue. If you do not qualify for the small applicant or first 2 priority periods totaling 28 days, then you can submit your application at that point.

▶ **What is definition of 300 employees - over what time period?**

300 employees is based on average headcount per pay period for the most recent calendar year.

▶ **What are considered eligible wages for ERC for large employees?**

Over 500, only for compensation paid to employees not working as a result of the two qualified ERC bullets. Under 500, all employees.

▶ **Is the 50 FTE based on 2019 levels or current FTE levels?**

To date, we have not been able to find any published information from the SBA to answer this question and we need further clarification from the SBA on this. Based on current information, similar to other qualifying measures for eligibility, we believe that when the application is released, the measurement date for the 50 FTE will be as of the beginning of the pandemic, 2/29/20.

▶ **If you have 50 FTEs you can apply when the program opens, even if you don't have more than a 70 percent loss in revenue?**

Correct, because you are applying for a separate pool of money in the SVOG, the \$2 billion set-aside.

▶ **Are venues run by government entities eligible for the ERTC?**

Eligible Employers for ERTC include private sector business and tax-exempt organizations that carry on trade or businesses. Government entities are not eligible.

▶ **Would gross receipts also NOT include any other CARES monies?**

We would recommend backing out PPP and EIDL advances, we have not seen anything else documented as a required backout.

▶ **What if one quarter reduction is 20%, but a subsequent quarter is not?**

Assuming this is for PPP (25% reduction), you can meet it in any one quarter and still qualify for the program even if the other quarters are positive.

▶ **If you have not yet received your forgiveness for PPP1, are you still able to apply for PPP2?**

Yes, as long as you attest that PPP1 is or will be spent on eligible forgivable costs.

▶ **How do you calculate eligible health benefits for PPP2?**

Employer provided health insurance, accident/disability, life, dental are all included. Employee pretax amounts are already included in gross wages.

▶ **Can you share thoughts on the certification of need?**

▶ **SVOG: Certificate of necessity - any guidance on what may exclude an organization?**

Similar to the PPP certification from what has been communicated so far, but until the application comes out, we will not know the exact wording of/for the certification.

▶ **How is earned revenue defined?**

Gross Earned Revenues current definition:

- ▶ Do not include amounts received under the CARES Act
- ▶ Must use the accrual method of accounting
- ▶ Does not include other sources of revenue not considered to be earned (e.g. contributions, sponsorships, governmental assistance, and investment returns)
- ▶ May need to bifurcate revenues on some revenue streams between earned and unearned (e.g. museum memberships, fundraising events)

▶ **The law states 25% revenue reduction for SVOG eligibility, not Gross Earned Revenue. When was this clarified and what is the source?**

Our understanding is that it is gross earned revenue, not all revenue. Gross earned revenues appear to be the appropriate qualifying measure, including based on the SBA's most recent answers to its FAQ's (specifically Eligibility, Question 3).

▶ **Priority periods: what are the comparison periods for gross earned revenue loss (i.e. 90% or 70%)?**

The comparison periods are (1) April 2020 to December 2020 when compared to (2) April 2019 to December 2019.

▶ **For the SVOG, is the April to Dec revenue test apply to total gross revenue or to Earned Gross revenue?**

The guidance from the SBA currently says "revenues", not earned gross revenues, so we presume that would mean total revenues. However as this is inconsistent, we are awaiting confirmation from the SBA.

▶ **Are grants from local programs considered as income?**

This depends on whether your grants are considered earned revenue or contributions. Under recently implemented accounting standards, most government grants, including local governments, are considered to be conditional contributions, not earned revenue. We would need to know more about your circumstances, please contact us for additional guidance.

▶ **If you took advantage of safe harbor, can you ask the same bank to reissue the loan, or start from the beginning with a new lender?**

While we are not certain, we believe that since the original bank has all of the original application materials, most will be using that lender and it seems unlikely a different bank would want to take on that additional loan.

▶ **For the SVOG, can an organization be temporarily closed when applying?**

Our understanding is that if you intend to be open, but you are closed because of local health ordinances, then you are eligible. If you can be open (i.e. you are not being prevented from opening because of local health ordinances), but you are choosing to remain closed or have no intent to reopen in the near term, then you would not be eligible. We believe this wording was included in the Act so funding is not provided to organizations that have closed and have no intent to reopen.

▶ **Must we follow federal grant rules, policies etc. for SVOG?**

Correct. This will be a federal grant, the compliance requirements of which have yet to be determined.

▶ **Would a transfer from a support organization be considered a contribution and therefore not included as gross revenue under SVOG?**

This sounds like a contribution, but it depends on your specific circumstances. Please contact us for guidance on your particular situation.

▶ **Can you venture a best guess to when the SVOG grant applications will open?**

▶ **Do you have a sense on how long the SVOG funds will last?**

Unfortunately, we do not have this information at this time. The only guidance we can provide is that we believe the SBA will at least announce the opening of the application process in advance. There are a lot of shuttered venues, so it could be a very popular grant program, but we have no idea how long the funding will last.

▶ **Are ERTC "credits" excluded as revenue for the SVOG?**

Based on the limited guidance that is currently available, our understanding is that any previous assistance received under the Cares Act, including the ERTC, would be excluded from gross earned revenues. However, there could be future guidance issued.

▶ **Can you apply for both PPP and Shuttered Venues Grant at the same time and accept the program that awards more money and cancel the other?**

Wouldn't recommend applying for both. The SVG is not open for application yet and PPP2 closes 3/31. If by the close of the deadline SVG is still not available a decision would need to be made about whether to just go for PPP. I would also closely monitor the funding levels at the SBA website to see if we are getting close to using all the funds.

▶ **Can we choose what date to begin SVOG, such as 1/01/21?**

▶ **How do we determine the period of eligible expenses?**

You can use eligible expenses any time during the full 22 month period starting from March 1, 2020, and ending in December 31, 2021. For example, if you only want to start by using your 2021 expenses, maybe because you already used a lot of 2020 expenses on the PPP loan forgiveness, you can.

▶ **Is there a size or seat minimum for the auditorium? Do they define programming?**

The size of a qualifying auditorium is not specified in the act, nor has any additional information been provided by the SBA to date which would address this question. As of now, we are not aware of a minimum seat threshold for the auditorium to be eligible.

▶ **What constitutes "fixed" seating? Is there a number of how many fixed seats an organization should have? Is there a date when that seating needs to be in place by?**

Museum operators must have at least one auditorium, theatre, performance or lecture hall with fixed audience seating and regular programming. Fixed seating is defined as seating permanently fixed to floor or ground.

We are not aware of any minimum seating requirement given the current guidance from the SBA. Our understanding is that the seating would have needed to be in place at the beginning of the pandemic, 2/29/2020 to qualify. We do not think the intent of the SBA is to allow you to apply for the grant by installing fixed seating in your auditorium at this point. We suggest emailing this question about to the SBA at [svogrant@sba.gov](mailto:svogrant@sba.gov) as they have not specifically addressed to date.

▶ **Does auditorium seating that is retractable disqualify a museum? We are a museum with an auditorium with retractable seating but not removable from the room and can be hidden behind a curtain to allow for other type seating (tables, chairs, etc.)?**

▶ **What about a lecture hall that is always there- only used for lectures and programs as an amphitheater but not permanently fixed?**

▶ **Is there more clarification around fixed seating for SVOG? Does seating around the walls of a room qualify or does it need to be an entire auditorium?**

Seating must be permanently attached to the floor or ground to qualify. Retractable or otherwise moveable and convertible seating would disqualify the space.

The size or layout of a qualifying auditorium is not specified in the act, nor has any additional information been provided by the SBA to date which would address this question so as of now, we are not aware of a minimum seat threshold for the auditorium to be eligible.

One area that may need clarification would be if you have an amphitheater that is terraced and fixed, but no seats, patrons sit on the terraced steps, or the terraced steps with seat cushions. Would this space qualify? No clear answer on this yet.

▶ **Is there a chance that the fixed seating requirement could be changed? As it stands, many museums are excluded from this grant because of chairs.**

We are not aware of any move to change this requirement and do not want to speculate. We understand this is an important question if you are trying to decide which path to pursue, the PPP2 or the SVOG. One is a path of certainty, and the other, if you currently do not qualify for the SVOG, is a path of uncertainty.

Our understanding is the draft legislation was not intended to assist museums, and when they tried to pull museums in, they somehow had to make the existing venue requirement also apply to the museums. If you are not eligible for the SVOG, hopefully you can qualify for PPP2.

▶ **Do we still need to have the fixed seating? We removed it in January 2021.**

We do not know the answer to this question with any certainty, but our general thinking is that if you had a qualifying auditorium with fixed seating at the beginning of the pandemic, as of 2/29/20, you may still qualify for the SVOG. Also, since you removed it after the initial grant period, which ends on 12/31/20, at a minimum, we think you would qualify for the initial grant, but maybe not the supplemental. We suggest emailing your question to the SBA at [svogrant@sba.gov](mailto:svogrant@sba.gov).

▶ **For the regular programming requirement must it be an average of 4x per year or will 48 performances per year count?**

We believe seasonality of programming would not preclude you from being eligible for the SVOG since on average, you are using the theater for programming almost once a week, or at least 48 times a year, so you should be able to meet that eligibility requirement. A lot of performing arts theaters have no programming in the summer—that is not uncommon.

▶ **Do we know yet if the SVOG qualifications on fixed seating, regular programming, etc. will require just a certification or documentation of some sort?**

We are unsure until the application process opens.

▶ **Is a planetarium considered a theater? It has fixed seating and meets the other requirements for the grant.**

Yes, we think a planetarium would qualify as long as it has fixed seats and had at least weekly programming pre-Covid.

▶ **We are a children's museum with a kids theatre exhibit with fixed seating benches for about 12-15 people. The kids have costumes and in their play put on skits, etc. (not formal programming). Would this count?**

This is a difficult question to answer, because it sounds like this room is more of an interactive experience room for children, as opposed to a performing arts auditorium where an audience may see a film or live performance. It sounds like it would qualify from the fixed seating perspective, it is just hard to say if it follows the programmatic intent of the SVOG. With the limited guidance that has been currently published by the SBA, we believe qualification of the space is subjective, and could be open to challenge.

▶ **We do not own our museum, it is a State museum and the State has not reopened. We did receive PPP funds in April but as we never re-opened. We did not use most of our funds (there's no way for docents to work from home). Am I understanding correctly that I can apply to PPP again for the amount that I did not use, or for the total amount I received with the first rollout?**

Not exactly. Borrowers that returned or repaid a first-draw PPP loan are eligible to reapply for that loan provided the lender reported to the SBA before Dec. 27 that the borrower had fully repaid the loan or canceled the loan. The borrower may then apply for a new first-draw PPP loan in an amount the borrower is eligible for under current PPP rules.

Borrowers that returned or repaid part of a first-draw PPP loan may request a loan increase equal to the difference between the amount not paid back by the borrower and the amount previously approved. The lender may disburse those funds to the borrower provided that the lender reported to the SBA before Dec. 27 that the loan had been partially repaid. For example, if a borrower returned \$25,000 of a \$100,000 PPP loan because the borrower could not spend the funds during the covered period, the lender can disburse \$25,000 back to the borrower provided other conditions are met.

Borrowers that did not accept before Dec. 27 the full amount of a first-draw PPP loan for which they were approved may apply for an increase in the loan up to the amount previously approved. Lenders may approve the request and disburse the funds but must follow one of two processes detailed in the notice based on how they reported before Dec. 27 that the borrower did not accept the full amount of the PPP loan.

▶ **Some churches also operate as museums and live performance venues (over and above their worship services). They have fixed seating. Thoughts on how they might make a case for shuttered venue grant eligibility?**

This is an interesting question. Some churches are of historical significance and do charge admissions, or suggested donations, for entrance during periods when services of worship are not being held, similar

to museums. And some of these churches may also have periodic, non-religious concerts at times as well, so they could possibly qualify from that perspective, but unless these concerts are occurring on an almost weekly basis, then it would not meet the on-going or near-continuous programming requirement, nor is the church likely to have a significant loss of earned revenue, unless they are charging a fair amount for these live performances, so even if eligible, unlikely to qualify for much of a grant.

▶ **I am a live venue operator, not museum. Where can I get more information in order to make a decision between the SVOG vs. 2nd draw PPP?**

We would direct to you to the SBA's SVOG webpage, which has the qualifying requirements for all eligible operators, not just museums.

▶ **We had a severe storm that forced us to be closed with no power for two weeks and we had to rent a generator. Can we request to purchase a generator in PPP 2?**

We don't believe that cost can be included considering the new categories available for PPP2. They are mostly around public disturbances and COVID costs.