

Stimulus Aid for Venues – Government & NFP Eligibility

The *Consolidated Appropriations Act, 2021* (the Act) included \$15 billion in grants for live venue operators or promoters, theatrical producers or live performing arts organization operators, motion picture theater operators, museum operators, or talent representatives that were in operation on February 29, 2020, and had a 25 percent or greater drop in revenue during any quarter of 2020 as compared to the same quarter of 2019. Any grants or other funding received from *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) provisions are disregarded in determining the reduction in gross revenue. For the first 60 days, \$2 billion is set aside for entities with fewer than 50 full-time employees. For determining the 50-employee limit, any employee working not fewer than 30 hours per week shall be considered a full-time employee and those working between 10 and 30 hours per week shall be counted as one-half of a full-time employee. Initial grants are awarded under a three-tier priority system and can be up to \$10 million. If at April 1, 2021, gross revenues for the most recent quarter are not greater than 30 percent of the same quarter of 2019, a supplemental grant also may be applied for. The supplemental grant shall not exceed 50 percent of the original grant.

The Act does not preclude relief eligibility for entities owned by a state or a political subdivision of a state; however, the relief is only available to venue operators and not any other entities of a state or a political subdivision that are not venue operators.

Convention centers and sporting arenas may be eligible for relief but would have to meet the strict entity and venue criteria noted below. Management and operating agreements vary and eligibility will be based on each entity's unique facts and circumstances.

See other related **BKD Thoughtware®**:

[Congress Expected to Pass Phase 4 COVID-19 Stimulus Bill](#)

[Museums Get Relief in New Aid Package](#)

Entity & Venue Qualifications

All types of entities are eligible for this relief, including for profit, nonprofit, government owned, corporations, limited liability companies, partnerships, and sole proprietorships. To qualify for relief, one of two criteria must be met:

- The individual's or entity's principal business activity must be to organize, promote, produce, manage, or host live concerts, comedy shows, theatrical productions, or other events by performing artists for which:
 - A cover charge through ticketing or a front door entrance fee is applied and 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
 - Not less than 70 percent of the earned revenue is generated through cover charges or ticket sales, production fees or production reimbursements, nonprofit educational initiatives, or the sale of event beverages, food, or merchandise
- An individual or entity that, as a principal business activity, makes available for purchase by the public an average of not less than 60 days before the date of the event tickets to live concerts, comedy shows, theatrical productions, or other events by performing artists—events for which 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

Other qualifications include:

- As of the grant date, the live venue operator or promoter, theatrical producer, or live performing arts organization operator is opened or intends to reopen. The venue must have the following characteristics:
 - A defined performance and audience space

- Mixing equipment, a public address system, and a lighting rig
- Engages one or more individuals to carry out at least two of the following roles:
 - A sound engineer
 - A booker
 - A promoter
 - A stage manager
 - Security personnel
 - A box office manager
- There is a paid ticket or cover charge to attend most performances, and artists are paid fairly and do not play for free or solely for tips, except for fundraisers or similar charitable events
- For a venue owned or operated by a nonprofit entity that produces free events, the events are produced and managed primarily 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
- The live venue operator or promoter, theatrical producer, or live performance arts organization operator does not have—or is not majority owned or controlled by an entity with—any of the following characteristics:
 - Being an issuer of securities listed on a national securities exchange
 - Receiving more than 10 percent of gross revenue from federal funding during 2019, excluding amounts received under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*
- The live venue operator or promoter, theatrical producer, or live performing arts organization operator does not have—or is not majority owned or controlled by an entity with—more than two of the following characteristics:
 - Owning or operating venue in more than one country
 - Owning or operating venues in more than 10 states
 - Employing more than 500 employees as of February 29, 2020, determined on a full-time equivalent basis. Employees working no fewer than 30 hours are considered full time. Employees working between 10 and 30 hours will be counted as one-half of a full-time employee

In addition, the live venue operator or producer, theatrical producer, or live performing arts organization operator cannot receive a Paycheck Protection Program (PPP) loan or a second draw PPP loan guaranteed after the Act's enactment date.

Grant Size

Initial grant awards will be on a three-tier priority system (Initial Grants). For tier one, during the first 14 days of awarding grants under this provision, the U.S. Small Business Administration (SBA) is required to only award grants to those individuals or entities that had revenue between April 1, 2020, and December 31, 2020, that is not more than 10 percent of the revenue earned between April 1, 2019, and December 31, 2019, due to the coronavirus pandemic. The second priority begins immediately following the end of the first 14-day period and runs for the next 14 days. This priority is the same qualification as priority one except 30 percent is substituted for 10 percent. At the conclusion of the first 28 days, all eligible individuals and entities may be awarded grants under the same terms. This continues until day 60 of the award period.

The revenue calculations do not include any CARES Act funds received. Alternate revenue calculations are provided for seasonal employers.

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Initial Grants are the lesser of:

- 45 percent of 2019 gross revenue earned, or
- \$10 million

An Initial Grant recipient can apply for a supplemental grant if, as of April 1, 2021, the revenues for the individual or entity for the most recent calendar quarter are not more than 30 percent of the revenues for the corresponding quarter of 2019, due to the COVID-19 pandemic. A supplemental grant is limited to 50 percent of the Initial Grant received, subject to an overall cap of \$10 million of total grants.

Use of Grants

The grants may be used for expenditures allowed under the PPP, as amended by the Act and expanded to include principal payments on debt that existed on February 15, 2020. In addition, certain maintenance and administrative costs are allowed.

Initial Grants must be fully spent between March 1, 2020, and December 31, 2021, and supplemental grants must be fully spent between March 1, 2020, and June 30, 2022.

The grants may not be used:

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

Conclusion

BKD will continue to follow this developing situation. As with most topics related to COVID-19, changes are being made rapidly. Please note that this information is current as of the date of publication. Visit [BKD's COVID-19 Resource Center](#) to learn more. If you have questions about these changes, contact your **BKD Trusted Advisor™** today.

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