The Shuttered Venue Operators Grant (SVOG) was impacted by a big change announced in a new FAQ the SBA posted on Sunday, February 28th. The SBA has completely reversed previous guidance and now the grant prioritization periods for applying for SVOG funding will be based on gross revenue loss. They are no longer based on earned revenue loss, which would have been a better fit and the preference of most nonprofits. NYCON has learned that this change was the result of significant pushback from for profit entities who argue they have received no revenues of any form as compared to nonprofits. The SBA had previously (as of last week) posted earned revenue loss as the determination for when an organization could apply, which was quickly removed after an outcry from for profits. The SBA was told to consult Congress, which clarified that the intent was gross revenue loss instead. This clarification is actually addressed in one of the new FAQ updates. For reference, the related gross revenue updates are outlined for reference (and included in the FAQ).

NYCON has also learned that it is unlikely that the SVOP will open for applications until at least mid-March (maybe not even until late March). The SVOG application delay is related to the SBA still finalizing the criteria and the grant application system. Furthermore, the SBA appears to plan for a one week break between the final SVOG criteria posting and the opening of the application portal. Thus, organizations are looking at least mid-March by default for applying. It seems the first round of grant awards will occur in April. With PPP ending March 31st, this timeframe will be of concern to organizations weighing their options of applying for the SVOG or the PPP.

Gross Revenue Loss

6. *How will capital funds, restricted grants, or investment income affect an entityâ€™s SVOG application?*

The SBA will take such financial resources into consideration when the Agency is examining an eligible entityâ€™s gross revenue. For example, the SBA will consider such sources of revenue for purposes of determining whether an applicant meets the requirement that no more than 10% of its 2019 gross revenue came from the Federal government (excluding disaster assistance) or determining whether it can demonstrate sufficient gross revenue loss to qualify for one of the priority periods.

9. *How did the SBA determine what â€œrevenueâ€ to consider for establishing priority period eligibility?*

Congress simply referenced â€œrevenueâ€ to consider for the SVOG priority periods in the Economic Aid Act. General rules of statutory interpretation require an agency to give meaning to every word where possible and apply the wordâ€™s ordinary meaning. In the legislation, Congress used â€œrevenueâ€ in setting forth the priority periods, not â€œearned revenueâ€ and specifically used the term â€œearned revenueâ€ in other areas, illustrating its understanding of a distinction between the two terms and the ability to use the limitation where Congress deemed it appropriate.

10. *For determining applicant eligibility for priority periods, how is â€œrevenueâ€ being defined?*

The SBA will use gross revenues to determine how an entity qualifies for one of the priority periods.