U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF INSPECTOR GENERAL

SBA's Internal Controls to Prevent Shuttered Venue Operators Grants to Ineligible Applicants

Inspection Report

Report 24-02

October 25, 2023

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NOTICE:

Pursuant to the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Public Law 117-263, Section 5274, any nongovernmental organizations and business entities identified in this report have the opportunity to submit a written response for the purpose of clarifying or providing additional context as it relates to any specific reference contained herein. Comments must be submitted to AIGA@sba.gov within 21 days of the final report issuance date. We request that any comments be no longer than two pages, Section 508 compliant, and free from any proprietary or otherwise sensitive information. The comments will be appended to this report and posted on our public website.

EXECUTIVE SUMMARY

SBA's Internal Controls to Prevent Shuttered Venue Operators Grants to Ineligible Applicants (Report 24-02)

What OIG Reviewed

The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act provided $15 billion in funding for the Shuttered Venue Operators Grant (SVOG) program and set eligibility criteria for entities. The American Rescue Plan Act of 2021 provided another $1.25 billion in funding for the SVOG program.

This report presents the results of our inspection to assess the U.S. Small Business Administration's (SBA) SVOG controls to prevent disbursements to ineligible entities. Specifically, our review focused on general eligibility requirements applicable to all SVOG applicants and venue-specific requirements applicable to live venue operators.

To meet our objective, we reviewed applicable laws, regulations, policies, and procedures. We also interviewed program officials and reviewed SVOG application data and documentation. We used a web crawler that identified 1,423 high-risk awards. We sampled 167 grants for general eligibility criteria review, totaling $163.3 million. Separate from the web crawler, we identified 124 grants to live venue operators with business names suggesting multiple lines of business activity, rather than solely operating as live venues, and sampled 40 for venue-specific eligibility criteria review, totaling $24.8 million.

What OIG Found

SBA delayed launching the SVOG application portal for over 2 weeks in April 2021 because of technical issues. In June 2021, SBA officials made program changes, which SBA called a "program refresh," to accelerate application processing and to expedite the release of program funds.

SBA stopped using the application portal to track applicant compliance with each eligibility requirement, switching instead to a manual checklist. SBA staff were instructed to presume applicant assertions to be true unless a clear indication of fraud was present. SBA also placed a strict 4-hour review time limit per application. Additionally, SBA limited or eliminated certain verification procedures. For example, SBA stopped obtaining tax transcripts – official Internal Revenue Service records of filed tax returns – for SVOG awards under $500,000. It stopped validating certain matches to the U.S Department of the Treasury's Do Not Pay list, a centralized database of entities barred from receiving additional federal funding due to previous issues, such as delinquent federal debt. These changes weakened internal controls by making it more difficult for reviewers to identify ineligible applicants.

From our two samples, we questioned 47 awards, totaling about $22.9 million in grants awarded as the result of these weakened controls. We determined they were ineligible because their applications and supporting documentation did not comply with SVOG eligibility criteria.

What OIG Recommended

We recommended SBA management 1) reevaluate eligibility for the 47 SVOG applicants we reviewed and recover funds from applicants determined to be ineligible and 2) implement additional controls for the monitoring, auditing, and compliance phases to prevent ineligible entities from receiving grants.

Agency Response

SBA management disagreed with the audit finding because the agency did not believe our samples sufficiently tested for eligibility and internal controls documented herein. Management agreed in principle with recommendations 1 and 2; we will pursue resolution in accordance with our audit follow-up policy for the recommendations..

OFFICE OF INSPECTOR GENERAL
U.S. SMALL BUSINESS ADMINISTRATION

MEMORANDUM

Date: October 25, 2023

To: Isabella Casillas Guzman
Administrator

From: Hannibal "Mike" Ware
Inspector General

Subject: SBA's Internal Controls to Prevent Shuttered Venue Operators Grants to Ineligible Applicants (Report 24-02)

The Office of Inspector General (OIG) is issuing this inspection report to bring to your attention concerns regarding the U.S. Small Business Administration's (SBA) Internal Controls to Prevent Shuttered Venue Operators Grants to Ineligible Applicants. These issues require immediate attention and action to address protentional awards to ineligible entities.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact me or Andrea Deadwyler, Assistant Inspector General for Audits, at (202) 205-6586.

cc: Arthur Plews, Chief of Staff, Office of the Administrator
Peggy Delinois Hamilton, Esq., Special Counsel for Enterprise Risk
Therese Meers, General Counsel, Office of General Counsel
Kate Aaby, Associate Administrator, Office of Performance, Planning, and the Chief Financial Officer
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Introduction

The U.S. Small Business Administration (SBA) received $1.2 trillion in appropriations as a result of the Coronavirus Disease 2019 (COVID-19) pandemic's widespread economic effects on the U.S. economy. Most of SBA's funding was provided through supplemental appropriations for new and expanded programs, including $813.7 billion for the Paycheck Protection Program, $525 billion for the Economic Injury Disaster Loan program, $28.6 billion for the Restaurant Revitalization Fund, and $16.25 billion for the Shuttered Venue Operators Grant (SVOG) program.

This report focuses on the SVOG program, authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act[1], also known as the Consolidated Appropriations Act[2], 2021. The Act initially funded the SVOG program with $15 billion, and the program received an additional $1.25 billion through the American Rescue Plan Act of 2021[3], increasing the total SVOG funding to $16.25 billion.

The SVOG program, administered by SBA's Office of Disaster Assistance, provided grants of up to $10 million to shuttered venues affected by the COVID-19 pandemic. The program targeted six entity types in the arts and entertainment businesses: live venue operators or promoters, theatrical producers, live performing arts organization operators, relevant museum operators, motion picture theater operators, and talent representatives. We used data analytics to assess grant recipients for general eligibility compliance and selected a sample of 167 high-risk awards across the six entity types. We determined that live venue operators were considered high risk because they had the potential of principal business activity being other than a live venue operator. As a result, we selected another sample of 40 live venue operator grant recipients to assess their eligibility, for a total sample of 207 SVOG awards. This report focuses on the test results of the 207 awards we examined, totaling $188 million.

[1] Public Law 116-260.
[2] Public Law 116-260.
[3] Public Law 117-2.

SVOG General Eligibility Requirements

To qualify for a grant, an applicant's business must have been in operation as of February 29, 2020[4], and at the time of applying, the business must have been open or intending to reopen.[5] Applicants must have incurred at least a 25-percent reduction in gross earned revenue in one quarter of 2020 compared to the same quarter in 2019.[6] Applicants could not present live performances of a prurient sexual nature or sell products of a prurient sexual nature.[7] Additionally, with the exception of museums, all venue types must have had some requirement for tickets or cover charges.[8]

Live Venue Operator Eligibility Requirements

In addition to the general SVOG requirements, live venue operators were required to demonstrate they owned or operated a venue on behalf of an owner and derived either 70 percent or more of their business income from event and event-related sales, or on average, offered tickets for sale at least 60 days in advance of the performance date.[9] Live venue operators were also required to organize live events of performing artists by 1) contracting with performers in a mutually beneficial agreement[10], 2) collecting an admission fee for most performances[11], and 3) marketing the events.[12]

SBA Preparations for Opening the Application Portal and Processing SVOG Applications

SBA announced on March 19, 2021, that it would begin accepting applications for the SVOG program on April 8, 2021, via an online portal. SBA published guidance for grant applicants to its website prior to the anticipated program launch date. Collectively, the documents summarized

[4] Public Law 116-260, Section 324(a)(1)(A)(i)(I).
[5] Public Law 116-260, Section 324(a)(1)(A)(ii).
[6] Public Law 116-260, Section 324(a)(1)(A)(i)(II).
[7] Public Law 116-260, Section 324(a)(1)(B).
[8] Public Law 116-260, Section 324(a)(1)(A)(iii)(IV) and Section 324(a)(1)(A)(iv)(III).
[9] Public Law 116-260, Section 324(a)(3)(A).
[10] Public Law 116-260, Section 324(a)(3)(A)(i)(I)(bb) and section 324(a)(3)(A)(ii)(III).
[11] Public Law 116-260, Section 324(a)(3)(A)(iii)(IV).
[12] Public Law 116-260, Section 324(a)(1)(A)(iii)(VI).

the statutory requirements of the SVOG program and provided additional explanation and clarification on program issues that applicants might find confusing. The agency also issued internal guidance and trained SBA staff tasked with processing SVOG applications.

SBA hosted public webinars on January 14 and March 30, 2021, to provide introductory information about the SVOG program, including who could apply and how organizations could prepare to apply. The webinars also covered the entire SVOG program lifecycle, including SVOG program background; program basics and definitions; eligibility; the application process; notice of award; grant disbursement; expenditure of grant funds; grant close out; recordkeeping requirements; and monitoring, audit, and enforcement actions.

From April 6 to April 8, 2021, SBA trained staff tasked with processing SVOG applications. The training covered the entire grant lifecycle, including information about government grants in general and information specific to SVOG awards.

OIG Management Alert

SBA Office of Inspector General (OIG) issued a management alert on April 7, 2021, which identified serious concerns about the SVOG control environment and tracking of performance results in the SVOG program,[13] before SBA opened its portal to receive SVOG applications. We suggested SBA take immediate action to reduce or eliminate risks by strengthening existing controls and implementing internal controls to address potential misuse of federal funds. Our suggestions for the SBA Administrator included:

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 the 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.

In response to this memorandum, SBA drafted an addendum to its SVOG Risk Analysis to acknowledge risks related to staffing, training, technology, program delays, and policy changes.

[13] SBA OIG Management Alert, *Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*, Report 21-13 (April 7, 2021).

SBA also drafted an SVOG Audit and Oversight Plan stating the SBA would perform periodic audits of the population of awards using a random sampling methodology and audit a statistically significant sample of awards for low-, medium-, and high-risk awardees. In addition, SBA updated its System for Award Management (SAM.gov) listing for the SVOG program to state that "SBA will apply Uniform Guidance at 2 CFR 200 to all applicants to the maximum extent practicable." SAM.gov is an official U.S. government website where entities must register to receive federal funds. Finally, SBA trained hundreds of employees to process SVOG applications.

SVOG Delayed Program Launch and Slow Rollout

SBA encountered technical issues upon opening the SVOG application portal on April 8, 2021, and announced that it had suspended access to the portal. SBA announced plans to reopen the portal by April 24, but the reopening was delayed until April 26. Within the first 24 hours the portal opened, SBA received 7,884 applications and awarded the first SVOG 1 month later, on May 26, 2021. By June 14, 2021, SBA had received 14,214 applications seeking $11.5 billion in SVOG funding but had awarded only 411 grants totaling $304.2 million.

Congressional Concerns Regarding Timeliness of Awards

On June 15, 2021, the SBA Administrator received a letter signed by 55 U.S. Senators that urged the Administrator to take immediate action to ensure that SVOG relief reached eligible applicants without further delay. The letter stated that SBA's insistence on strict compliance with competitive grant rules created unnecessary funding delays. The letter also stated that restrictions on SBA communication with grant applicants was unnecessary and prevented the agency from providing administrative support to applicants that could have streamlined the application review process. The letter requested information on the status of SVOG application processing and what actions SBA was taking to keep small business owners apprised of the status of their applications.

On June 16, 2021, the SBA Administrator received a letter signed by 211 members of the U.S. House of Representatives also urging SBA to expedite the release of funds to beneficiaries of the SVOG program. The letter expressed great concern about the rollout of the program and release of funds, noting the delayed opening of the application portal and that SBA's June 14 program report showed that only 411 grants were made by that time from the 14,214 submitted applications. The members of Congress requested that disbursement of funds be immediately expedited.

SVOG "Program Refresh"

After the congressional inquiry, SBA made significant changes to its application review process. SBA called this the SVOG "program refresh," which was designed to speed up processing of applications. The refresh set a target of 600 SVOG application decisions per day by benchmarking no more than 4 hours for review of each application before recommending for award, declining, or inviting the applicant to reapply. The refresh increased the SVOG review and approval rate. From the opening of the portal on April 26, 2021, through June 9, 2021, SVOG staff completed 90 reviews. After the changes went into effect on June 11, 2021, SVOG staff reviewed 14,592 applications by July 26.

Table 1: SVOG Award Data as of July 5, 2022

Venue type	Total Number of Awards	Percent of Total Award	Total Award Value* (dollars)	Percent of Total Award Value
Live performing arts organization operator	3,396	26.1%	$2,490,199,841	17.1%
Live venue operator or promoter	4,824	37.1	6,055,884,984	41.5
Motion picture theater operator	1,621	12.5	2,572,467,758	17.6
Museum operator	815	6.2	1,363,876,379	9.4
Talent representative	1,404	10.8	985,554,074	6.8
Theatrical producer	951	7.3	1,106,290,134	7.6
Total	**13,011**	**100.0%**	**$14,574,273,170**	**100.0%**

* The total includes initial, reconsideration, supplemental, and reconsideration for supplemental awards.

Source: OIG analysis of SVOG data as of July 5, 2022, the end of our review period

Objective

Our objective was to perform an assessment of SBA's internal controls to prevent ineligible applicants from obtaining a SVOG.

Results

Finding 1: SBA Weakened Internal Controls and Increased the Risk of Ineligible Entities Receiving SVOG Awards

The "program refresh" may have been SBA's response to public outcry and congressional inquiries that followed delays in opening the application portal and subsequently awarding grants within the timeframe promised, but SBA significantly weakened internal controls to do so. As a result, it was more difficult for reviewers to identify ineligible applicants. As of July 5, 2022, the agency had awarded 12,921 grants, totaling $14.4 billion, after the "program refresh." Of the 207 grants we reviewed totaling $188 million, SBA made 47 awards (23 percent of the awards reviewed) to ineligible entities for a total of $22.9 million (12 percent of the dollars reviewed).

SBA determined the cause of the delays in awarding grants was too many eligibility controls. For example, the agency used the fact that 8,300 out of the 13,000 applicants at the time had Do Not Pay (DNP) matches and stated that it would require a complex cure process prior to being able to award grants. A cure process, sometimes called a fix period, is intended to provide one final opportunity for a debtor who is in default to make things right with the lender. SBA's "program refresh" reduced internal controls to ensure that each application was processed to a decision within 7 days of receipt in part by reducing initial application review time to 4 hours and decision process times to 30 minutes. In doing so, the "program refresh" weakened internal controls over the review process by changing to manual application review with the use of reviewer checklists, eliminating verification of tax transcripts for grants less than $500,000, and limiting validation for conclusive matches to the U.S. Department of the Treasury's (Treasury) DNP list. The SVOG "program refresh" weakened controls, instead of ensuring they were designed to reasonably prevent, detect, and correct unauthorized acquisition,[14] and resulted in awarding SVOGs to ineligible applicants.[15]

[14] OMB Circular A-123, "Management's Responsibility for Enterprise Risk Management and Internal Control" (July 15, 2016).

[15] U.S. Government Accountability Office, GAO-14-304G, Standards for Internal Control in the Federal Government, p. 5 (2014) requires managers to design controls that appropriately protect an agency's assets from waste, fraud, and abuse.

Reviewer Checklist

The SVOG portal was set up to receive applicant eligibility responses and supporting documents in separate pages for reviewers. The SVOG portal used a simple “verified,” “pending,” or “failed” determination for reviewers to mark their decision on the applicant’s eligibility and a comment section to document their rationale. An additional dialogue section, called “Chatter,” was provided in each section of the portal that allowed SVOG staff to discuss applicant information. The “program refresh” discontinued the monitoring and tracking of eligibility requirement determinations in the SVOG portal and switched to documenting eligibility manually in a Microsoft Word document called a reviewer checklist. SBA developed six different checklists for each unique entity eligible to apply for a SVOG, including the nine general eligibility requirements applicable to all entities and the venue-specific requirements applicable to the venue type applying. SVOG reviewers marked “Yes” or “No” to note if the applicant was still eligible after the review of each eligibility requirement. The document was then converted to a PDF document and uploaded to the “Chatter” in the applicant “Details” section of the SVOG portal. Once the SVOG reviewer uploaded the reviewer checklist, if determinations on eligibility were changed, the checklist was not updated to reflect these changes. As a result, changes made to eligibility determinations after the applicant review checklist was completed were not clearly documented. Unlike the clear failed marking of the SVOG portal, indications of potential ineligibility in reviewer checklists could easily be overlooked by approvers. SBA’s decision not to update the checklist’s eligibility determinations increased their risk of missing ineligibilities noted by the initial reviewer.

SVOG reviewers were given a benchmark of 4 hours per application before passing it to SVOG approvers. SVOG approvers had a benchmark of 30 minutes per application to determine whether they concurred with the SVOG reviewer’s assessment. SBA instructed reviewers and approvers to rely on the applicant attestation with limited online search for verification. The SVOG reviewers were instructed to presume an applicant’s statements to be true unless a clear indication of fraud existed. Instructions provided to reviewers did not include what constitutes a clear indication of fraud. Most SVOG recipients are likely first-time federal awardees, with only 3 percent of the 11,974 recipients awarded a SVOG as of September 20, 2021, having prior federal awards experience based on recent USAspending.gov activity.[16] With little prior experience with government grants, applicants likely did not know if they were in full compliance with government requirements. Also, considering the prevalence of fraud in SBA’s

[16] USAspending.gov is the official open data source of federal spending information.

other pandemic programs and the many lessons learned, SBA still relied on self-certification, limiting the ability of reviewer to detect ineligible entities through document reviews and web searches.

Additionally, SBA directed SVOG reviewers and approvers to view sales data “in the light most favorable” to the applicant and use a holistic approach to their reviews. As such, if the applicants could demonstrate they had live events at any given frequency, they were viewed as eligible. For applicants with multiple lines of business activity, SBA did not perform a full assessment of their principal business activity.

We reviewed checklists (table 2) as part of our sample of 40 live venue operators (see the “Live Venue Operators” section below). Based on award date, we determined that 39 of the 40 grants were awarded after the “program refresh.” SBA reviewers should have used a review checklist to evaluate eligibility for these 39 awards. Based on our examination, we found that SVOG reviewers did not consistently fill out the reviewer checklist. In most cases, if the primary six questions on the first page of the checklist were marked as “Yes,” the SVOG approver approved the grant. Fifteen out of the 21 reviewer checklists that noted eligibility issues had responses of “Yes” to all six primary questions. In some instances, when the approver acknowledged the discrepancies, they used vague language to dismiss the reviewer’s concerns rather than directly addressing the unmet eligibility requirement. For example, the approver would recommend approval based on “holistic review” of the application or because approval was warranted when the application was viewed “in the light most favorable” to the applicant. As such, there was no assurance the entities receiving these awards were eligible, resulting in a waste of government funds that could have been used to assist others.

Table 2: Sample of Reviewer Checklists

	Number of Reviewer Checklists	Number of Ineligibilities*	Number of Blanks
Primary question and eligibility questions marked as eligible	14	0	0
Eligibility questions marked as ineligible	15	97	50
Primary questions and eligibility questions marked as ineligible	6	47	9
No checklist	3	N/A	N/A
Primary questions marked as ineligible	1	0	0
Total	39	**144**	59

* Number of ineligibilities does not include the primary six questions.

Source: OIG analysis of SVOG data as of July 5, 2022

Data Analytics

We used a data analytics tool called a web crawler – a software application that downloads and indexes online content to mimic the online searches reviewers performed – to verify information submitted by applicants. Of the 13,011 businesses that received an award, 10,285 provided a business website in their SVOG applications. Of the 10,285 websites, 224 were not fully functional, and 219 blocked our web crawler.

We used the web crawler to evaluate the 9,842 accessible websites for functionality and content (see appendix 1 for more details). We found several websites with indicators that suggested a business was not in operation or was otherwise potentially ineligible for a SVOG, including:

- 110 websites that had not been modified since December 31, 2020;
- 1,010 websites that did not have any key terms indicating ticket sales, which are required for all venue types except museums;
- 79 websites that contained words suggesting content of a prurient sexual nature; and
- 236 websites containing 50 or fewer characters.

We selected a sample of awards (summarized on figure 1 below) from each of the populations identified through the web crawler. In total we reviewed and examined 167 awards and found 23 grants were ineligible because the applicant did not meet one or more general eligibility requirements:

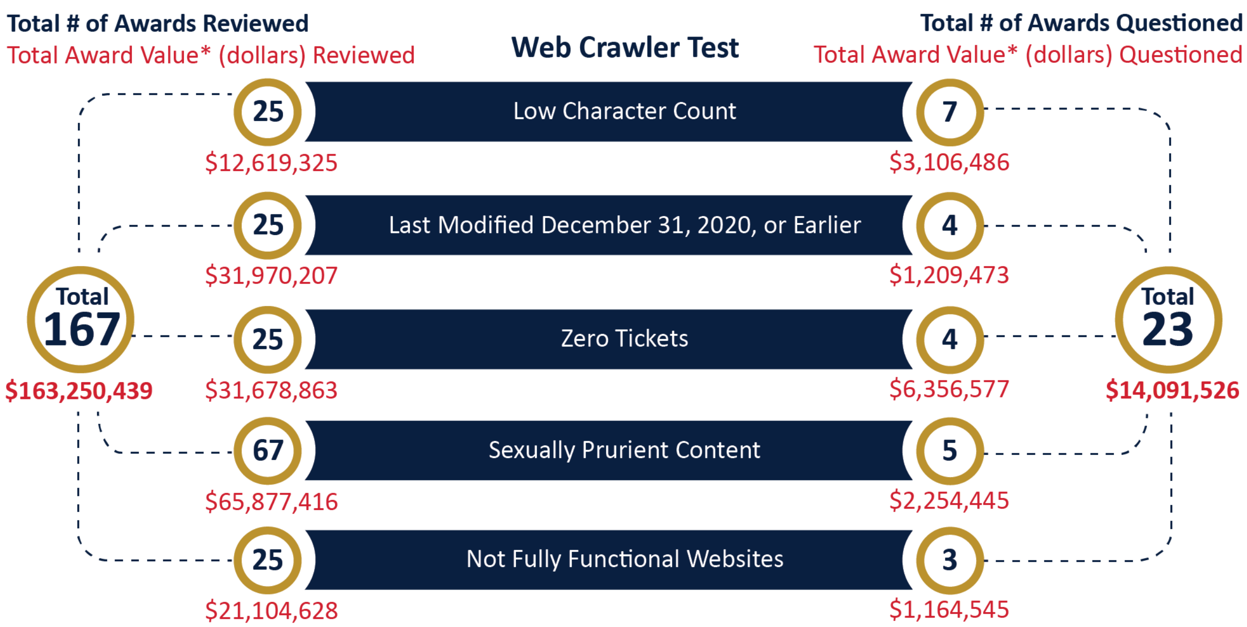
- Seven applicants' websites reviewed with the lowest number of characters did not have a principal business activity in the arts and entertainment industry to qualify for a SVOG. Documentation provided by these applicants in the SVOG portal did not sufficiently identify their principal business activity or demonstrate that the applicant qualified.[17]

[17] Public Law 116-260 Section 324(a)(3)(A).

- Four applicants' websites reviewed with a last modified date of December 31, 2020, or earlier, were closed and did not demonstrate intent to reopen, as required. Documentation provided by applicants in their loan applications was contradicted by information publicly available on the applicants' business website or social media accounts.[18]
- Four applicants' websites reviewed with no key terms indicating ticket sales did not require tickets or cover charges as required for all entities except for museums. Three of these businesses did not demonstrate ticket sales, and one applicant's business had not reopened, nor did the applicant have sufficient documentation to show that the business required paid tickets or cover charges.[19]
- Five applicants' websites reviewed containing words suggesting content of a prurient sexual nature were ineligible for a SVOG, or further investigation was needed to confirm eligibility.[20] One applicant's website showed it operated a pornography theater, one applicant's website contained hidden pornography links, and three applicants' websites showed they performed or hosted burlesque shows or similar performances.[21]
- Three applicants' websites reviewed for being deemed not fully functional had questionable eligibility requiring further investigation. One applicant did not demonstrate an intent to reopen[22] and did not own the venue or operate the venue on behalf of an owner.[23] One applicant applied as a theatrical producer but did not demonstrate that it held a for-profit interest in a theatrical production (other than as a vendor or service provider) or had sole or joint rights to control a theatrical production, which is an eligibility requirement for the theatrical producer entity type.[24] One of the 25 applicant's websites displayed pornographic content.[25]

[18] Public Law 116-260 Section 324(a)(1)(A)(ii).
[19] Public Law 116-260, Section 324(a)(1)(A)(iii)(IV).
[20] We used an SBA internal legal memorandum dated September 15, 2021, as a basis for our review.
[21] Public Law 116-260, Section 324(a)(1)(B)(i).
[22] Public Law 116-260, Section 324(a)(1)(A)(ii).
[23] Public Law 116-260, Section 324(a)(3)(A).
[24] Public Law 116-260, Section 324(a)(3)(A).
[25] Public Law 116-260, Section 324(a)(1)(B)(i).

Figure 1: Sample of 167 web crawlers reviewed



*Comprised of initial, reconsideration, supplemental, and reconsideration for supplemental awards.
Source: OIG analysis of SVOG data as of July 5, 2022.

Live Venue Operators

We identified 124 entities as high risk due to venue type. The business names of these SVOG awardees included terms such as “bar,” “brewery,” “winery,” “restaurant,” or a similar name that would indicate a business other than a live venue. We judgmentally selected 40 of the 124 entities for testing. While the sample of awards we reviewed was limited to live venue operators, the internal control deficiencies we identified were applicable to all entity types for applications that SBA reviewed and awarded after the “program refresh.”

The Consolidated Appropriations Act, 2021, contained 7 general SVOG eligibility requirements and 11 specific requirements for live venue operators. Applicants were also required to meet two requirements for general grant eligibility. We assessed each eligibility requirement to identify those that were easily verifiable through document review and web search. Based on our assessment, we limited our review to 4 of the 9 general eligibility requirements and 5 of the 11 venue-specific requirements.

We concluded that seven of the applicants did not meet one or more of the general eligibility requirements. Specifically, we found:

- Four applicants did not provide documentation to demonstrate a 25-percent or greater decrease in gross earned revenue in at least one quarter of 2020 compared to the same quarter in 2019;[26]
- Two applicants did not demonstrate intent to reopen. Documentation provided by both applicants were contradicted by web search information identified for the applicant's business;[27]
- One applicant did not demonstrate being in full operation on February 29, 2020. Documentation provided by the applicant showed no revenue in February 2020;[28] and
- One applicant presented documentation showing burlesque shows as one of their live performances. A web search of the business showed that the performances were of a prurient sexual nature as defined by an SBA internal legal memorandum. Applicants are ineligible to receive a SVOG if they have live performances of a prurient sexual nature.[29]

In reviewing venue-specific eligibility requirements, we concluded that 24 of the applicants did not meet one or more of the venue-specific eligibility requirements (see figure 2 below). Specifically:

- Eighteen applicants either did not submit documentation to support their principal business activity as a live venue operator, documentation provided did not sufficiently identify their principal business activity as a live venue operator, or the documentation provided demonstrated the applicant did not qualify as a live venue operator.[30]
- Eleven applicants did not demonstrate that most performances required a paid ticket or cover charge to attend. Seven of the eleven applicants provided documentation showing that the majority of events or all events were free, and four did not provide sufficient supporting documentation.[31]

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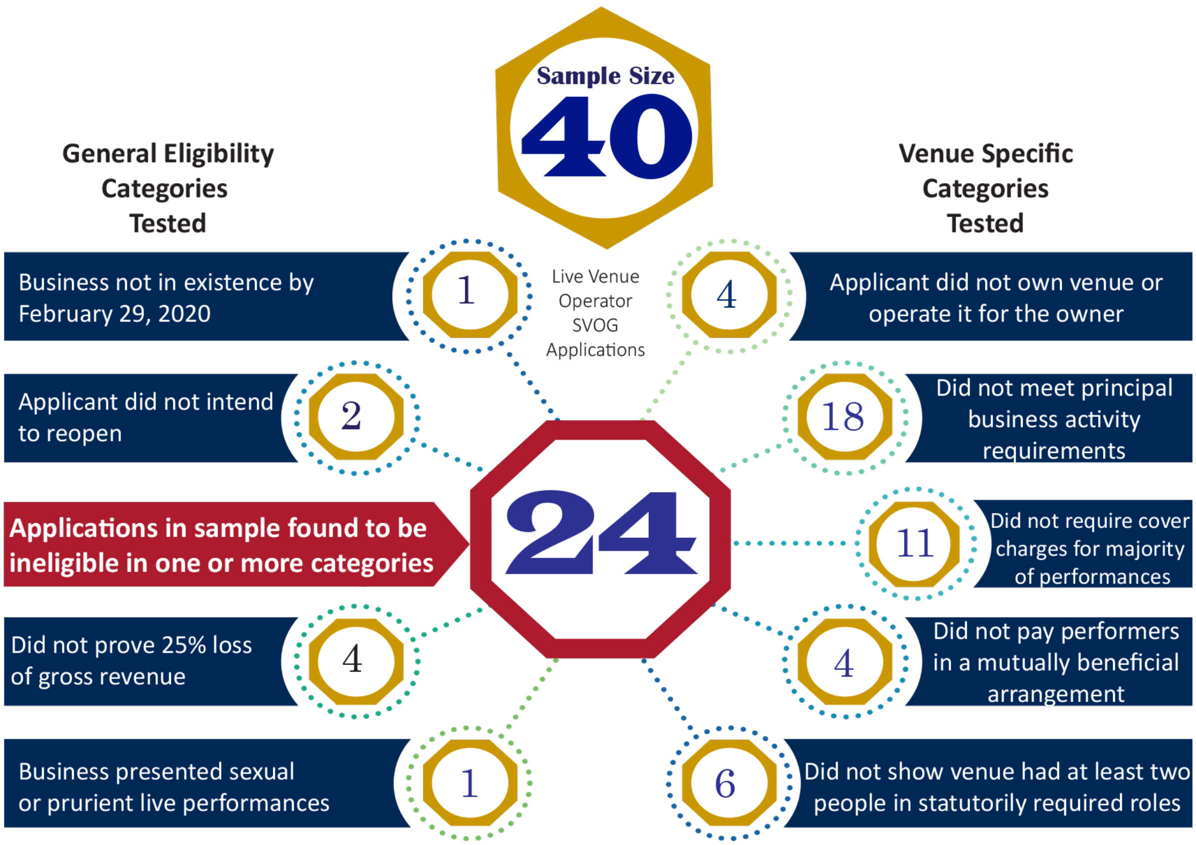
[26] Public Law 116-260, Section 324(a)(1)(A)(i)(II).
[27] Public Law 116-260, Section 324(a)(1)(A)(ii).
[28] Public Law 116-260, Section 324(a)(1)(A)(i)(I).
[29] Public Law 116-260, Section 324(a)(1)(B)(i).
[30] Public Law 116-260, Section 324(a)(3)(A).
[31] Public Law 116-260, Section 324(a)(1)(A)(iii)(IV).

- Six applicants did not demonstrate filling at least two of the required roles under the Consolidated Appropriations Act, 2021. Five of the applicants did not provide sufficient documentation, and one applicant indicated only filling one role.[32]
- Four applicants did not provide sufficient documentation to demonstrate that most performers were paid through a mutually beneficial arrangement.[33]
- Four applicants did not own the venue or operate the venue on behalf of an owner.[34]

Figure 2: Sample of 40 live venue operators reviewed



Source: OIG analysis of SVOG data as of July 5, 2022

[32] Public Law 116-260, Section 324 (a)(1)(A)(iii)(III).
[33] Public Law 116-260, Section 324(a)(3)(A)(i)(I)(bb) and (a)(3)(A)(ii)(II).
[34] Public Law 116-260, Section 324(a)(3)(A).

Internal Revenue Service Tax Transcripts

Another change of the "program refresh" was the removal of Internal Revenue Service (IRS) transcripts – official IRS records of filed tax returns – for grants less than $500,000. SBA made this decision because grants of this amount or less made up 70 percent of the applications and only 12 percent of the requested funds. SBA believed the benefits of this check, such as verifying identity and validating 2019 income, could be achieved using applicant provided data. SBA's decision for the review of tax transcripts did not consider supplemental awards and only made the decision to perform or not perform the tax transcript reviews based on the initial grant amount. Supplemental awards could push an entity's total grant amount over the $500,000 threshold, yet it would not trigger a requirement to obtain the tax transcript. As of July 5, 2022, the end of our review period, the percentages still held, with approximately 70 percent of the applicants having requested an initial grant amount less than $500,000, making up less than 15 percent of the grant dollars awarded. Over eight percent of these applicants received supplemental awards that pushed the total award amount for the applicant above the threshold of $500,000, increasing the risk of the decision to forego the tax transcript validations. In total, 1,136 applicants received total awards more than $500,000, but they were not required to provide transcripts. These 1,136 applicants received over $860 million in total (table 3).

Table 3: Tax Transcript Data as of July 5, 2022

Tax Transcripts Obtained	Total Number of Awards	Percent of Total Awards	Total Award Value* (dollars)	Percent of Total Award Value
Obtained at time of initial award (grants more than $500,000)	3,935	30.2%	$12,390,621,561	85.0%
Not obtained but supplemental increased past $500,000	1,136	8.8	861,484,052	5.9
Not obtained (grants less than $500,000)	7,940	61.0	1,322,167,557	9.1
Total	**13,011**	**100.0%**	**$14,574,273,170**	**100.0%**

* Comprised of initial, reconsideration, supplemental and reconsideration for supplemental awards.

Source: OIG analysis of SVOG data as of July 5, 2022

Do Not Pay List

Prior to the "program refresh," the SVOG program sent applicant data to the Treasury to be verified against the DNP list of entities barred from receiving additional federal funding due to previous issues, such as delinquent federal debt. SBA determined that the original approach of checking all three matches [possible (name only match), probable (number only match), or conclusive (name and number match)] was over-controlled, and applicants would need to go through a complex process to cure the DNP matches prior to receiving a SVOG.[35] SBA revised the Treasury DNP list validation checks to only conclusive matches and removed all matches to the Death Master File, a subdatabase of the DNP list. This decision was made because the SVOG application did not specifically collect Social Security Numbers (SSN). The field for business tax identification could be either a SSN or an Employer Identification (EIN). When EINs were provided by applicants and ran against the Treasury DNP list, it resulted in false positives (valid EIN matching to deceased SSNs). SBA could have corrected this issue by requesting that all applicants provide a SSN for the principal applicant.

Conclusion

SBA's "program refresh" changes were to expedite the review process by cutting the review process time to 4 hours, decision process time to 30 minutes, and ensuring that decisions were processed within 7 days or less for each application. SBA reduced the pre-award internal controls for the SVOG program, relying instead on post-award monitoring, despite the challenges identified with similar approaches in SBA's other pandemic relief programs. SBA determined that if the application reviewers and approvers, along with the disbursement and monitoring teams, all performed their assigned duties, the cumulative effect would provide necessary protections against fraud and ineligible entities. SBA moved these pre-award reviews to post-award monitoring, which may require SVOG awardees to submit rigorous documentation, including audited financial statements, during this phase of the SVOG program. Post-award monitoring does not provide sufficient fraud prevention and comes at a point when funds are potentially unrecoverable. Had SBA not lowered the internal controls to verification through applicant assertion, the document review and web searches could have identified the 47 ineligible awards totaling over $22.8 million out of the $188 million in awards we reviewed.

[35] OIG did not perform detailed testing on the Treasury's DNP list as part of this inspection. OIG intends to do a review of the DNP list under a separate cover to determine impact.

While OIG did not review a statistical sample of SVOG awards, the 47 ineligible awards we identified represent 23 percent of the awards we did review, which can also be characterized as 12 percent of the dollars we reviewed. Though this small sample cannot be extrapolated to the entire SVOG portfolio, our findings do evidence concern as it relates to the effectiveness of SBA's pre-award controls. These results also underscore the importance of upfront controls to reduce the risk of fraud and prevent a pay and chase scenario.

Recommendations

To address the issues identified, we recommend that the Administrator direct the Associate Administrator for the Office of Disaster Assistance to:

Recommendation 1: Reevaluate eligibility for the 47 applicants we questioned and recover grant funds from the ineligible applicants.

Recommendation 2: Implement additional controls to ensure that, during the monitoring, auditing, and compliance phases, awards are carefully screened to verify eligibility and to recover grant funds from ineligible entities.

Evaluation of Agency Response

SBA management provided formal comments to the draft report. We have included those comments in Appendix 4. SBA also provided a more detailed response that SBA management requested, and we agreed not to include the final appendix of their response because it includes personally identifiable information about each of the SVOG recipients discussed in this report. SBA management's response focused on the controls and sample OIG tested rather than the eligibility concerns of SVOGs identified in this report. SBA management agrees in principle with our recommended actions to ensure grant recipients are eligible. We considered management's comments from both written responses – the attached response in Appendix 4 and the response SBA requested not be attached – when preparing this final report.

SBA management provided an extensive list of documentation to OIG to ensure we had reviewed the same information as the reviewers for awarding grants. It is noted that some of the information provided was obtained by SBA after awarding the grant, and some of it SBA obtained in response to our finding. OIG appreciates SBA's actions on our findings and their feedback. We reviewed the provided information and met with program officials on three separate occasions to discuss the audit finding and any new material provided by SBA. The documents provided by SBA were already reviewed as part of the inspection process and in accordance with established inspection standards.[36]

OIG's Analysis of Management's Disagreements with Our Testing Methodology

SBA management contends the controls and sample OIG tested were not connected and did not support our finding. SBA also stated this report would cause unwarranted public confusion. OIG disagrees, as our sampling and testing procedures were planned and performed in accordance with established inspection standards and focused specifically on SBA's review process and controls SBA revised to speed up the distribution of SVOG grants.

Additionally, the agency questioned our risk-based approach and sample size. Risk-based sampling methodologies were used in this review and were performed in accordance with inspection standards, allowing for testing that focuses on the highest-risk transactions that could be affected by weak controls.[37] Our sample methodology is included within OIG reports to explain how a sample is selected. For this review, the sample included 167 from the 1,423 high-risk awards identified by the web crawler and a sample of 40 from the 124 high-risk awards identified based on business names that indicated a business other than a live venue, such as a bar, brewery, winery, restaurant, or similar business, that could potentially be ineligible for the grant based on principal business activity being other than a live venue. OIG sampled over 10 percent of each of these two high-risk categories identified in this report.

SBA management's comments assert the SVOG program contained multiple risk controls, of which OIG focused on only three internal controls. In its response, the agency speaks of numerous preventative and detection controls they have in place, yet SBA never provided an explanation of how or why these controls did not prevent awards being made to the potentially ineligible entities identified in this report. Specifically, SBA's SVOG Process Narrative identified 15 key controls; 5 of those controls are directly tied to the reviewer checklist, and 2 of those controls are tied to limited use (see limitations discussed in the next two paragraphs) of Treasury's DNP List and IRS transcripts. Thus, the OIG's risk-based testing reviewed 15 key controls identified by the agency. OIG then reviewed each applicant's provided documentation

[36] Council on Inspectors General on Integrity and Efficiency. (2020). *Quality Standards for Inspections and Evaluations* (Standard No 4.1 and 4.2).
[37] Council on Inspectors General on Integrity and Efficiency. (2020). *Quality Standards for Inspections and Evaluations* (Standard No. 4.3).

and obtained additional documentation from the agency to determine if the applicants were in fact eligible SVOG recipients. After reviewing all of the information, OIG maintains the entities mentioned in this report were ineligible to receive SVOGs and should be re-reviewed by SBA.

We recognize SBA faced challenges in tailoring the internal control environment of the SVOG Program to meet the monetary needs of intended recipients in a timely manner. Nonetheless, the agency should have taken measures to verify applicant eligibility. For example, even though SBA made public statements that they would use the DNP system, the agency removed portions of the Treasury DNP list control. The focus of the agency response is that a business would not have appeared on the DNP list, whereas we are noting that a principal applicant may have been barred, and the agency could have appropriately used the DNP control by simply obtaining the SSN of the principal applicant. Applicants with a controlling interest in the business who are on the DNP list should have been ineligible for awards.

Prior to the Program Refresh, SBA was going to use tax transcripts as a front-end control to ensure eligibility. After the Program Refresh, OIG found SBA had eliminated verification of tax transcripts for grant recipients receiving less than $500,000 and did not consistently apply this requirement for grant recipients past the initial award. Prior to the program refresh, SBA management indicated in their SVOG Risk Analysis addendum that tax transcripts would be a front-end control for mitigating risk. This is further evident by the fact that "Form 4506-T: Request for Transcript of Tax Return" is listed as a required document to be submitted by all applicants in the publicly published Application Checklist and Frequently Asked Questions. SBA's response dismisses our finding of the need for tax transcripts for all grant applications and places over reliance on self-certifications by contending tax transcripts provided limited use for verifying applicant financial assertions. The agency noted that earned revenue is not a stand-alone tax field on any tax return forms used by the IRS; therefore, the tax transcript, if available, could not be used to determine the eligible earned revenues for SVOG applicants in a consistent or timely manner. We disagree. SBA regularly uses tax transcripts to verify financial assertions made by applicants when applying not only for disaster loans but also for assistance under other SBA programs. The agency should have used this resource to the same degree when determining SVOG eligibility. Instead, the agency continued to rely upon self-certification despite the challenges identified in similar approaches within SBA's other pandemic relief programs.

SBA notes the several different reviewer checklists allowed for accelerated program development and provided a consistent, repeatable structure for every review. We agree that it is a consistent and repeatable structure; however, we found that reviewers inconsistently used the correct checklist, and the approvers ignored the ineligibilities documented.

SBA also expressed concerns that OIG may not have properly considered instances in which an applicant could fail one part of a requirement but still be eligible for a SVOG. When meeting with the agency, we noted our review did take into consideration requirements for which only one part had to be met for SVOG eligibility (such as the principal business activity of live venue operators being established either through revenue or advance ticket sales). Our inspection included an assessment of the entities, and all information was considered in the development of our findings as presented in this report.

OIG Analysis of Management Disagreement with Statutory Requirements

In reviewing and responding to our findings, SBA disregarded or did not fully consider the statutory language and provisions. One example of statutory misinterpretation is principal business activity for live venue operators, which could be met either by 1) 70 percent of the revenue coming from ticket sales/cover charges and event-based sales of beverages, food, or merchandise or 2) selling tickets to live events, on average, no less than 60 days in advance.[38] In a clear case of ineligibility, we identified a brewery as having received $1.4 million from a SVOG award, but the business had 36 percent of their revenue coming from products sold to other businesses for resale, making it impossible for 70 percent of the revenue to come from ticket sales/cover charges and event-based sales of beverages, food, or merchandise. In addition, out of the 189 live events at the establishment, only 50 were paid events, with no indication of advance tickets. The agency disagreed. SBA asserted that if it hadn't been for the entity's live events, none of the other sales would have occurred. SBA pointed to the existence of ticket sales as being sufficient for demonstrating advanced ticket sales, thereby ignoring the clear statutory requirements for SVOG eligibility. The statutory language is specific and intended to ensure that the recipients of the grant are in fact a live venue operator or promoter, theatrical producer or live performing arts organization operator, a relevant museum operator, a motion picture theatre operator, or a talent representative and not just a business that occasionally has performances.

In responding to the requirement that most performances require a paid ticket or cover charge to attend, SBA disagreed and pointed to any amount of ticket sales as support[39] even though there were clear examples of the business not requiring a ticket or cover charge for most performances. For example, one business provided their 2018, 2019, and 2020 performance list

[38] Public Law 116-260, Section 324(a)(3)(A).
[39] Public Law 116-260, Section 324(a)(1)(A)(iii)(IV).

with detailed pricing for the event and compensation to performers. The event list provided showed that, on average, only 12 performances annually required a ticket or cover charge even though the venue had over 200 events on their calendar each year.

When it comes to sexually prurient activities, SBA points to two files: 1) a talent representative who was awarded $1.5 million and 2) a live venue operator who was awarded $2.5 million. The first applicant had hidden pornographic links on their website, and the second applicant, who runs a restaurant that is open daily with an upstairs night club that is open only 3 nights a week, had a very suggestive Sunday brunch burlesque performance, which meets the definition of sexually prurient as defined by the agency. The statute clearly indicates that businesses cannot have live performances of a sexual nature.[40] The agency argues potential first amendment rights concerns, yet the federal government has historically not provided any bailout, rescue, or assistance funds to businesses who present live performances of a prurient sexual nature. The agency must apply the statutory language, which bars businesses with sexually prurient performances from receiving grants, by ensuring grant recipients are in compliance.

Lastly, the agency provided their statutory interpretation for three applicants who OIG found did not own or operate a live venue. SBA asserted the applicants could operate a venue in which the primary use is the presentation of live performing arts events and provided the following examples, including but not limited to, nightclubs, regional performing arts centers, amphitheaters, concert halls, and Broadway theatres. OIG used a similar approach and found the three entities in question used public streets, public parks, hotels, and private boats, all venues in which the primary use was not to present live performances.

OIG's Analysis of Additional Material Provided in the Undisclosed Response to the Report

For our sampled transactions, and specifically the exceptions we found, SBA provided additional information about each SVOG applicant. After reviewing this new information, we stand by our findings.

[40] Public Law 116-260, Section 324(a)(1)(B)(i).

In response to our finding regarding ineligible SVOG applicants, SBA management responded as follows:

- Where we identified websites that did not align with the applicant's assertions, SBA management stated there was no requirement to provide a website on the application. OIG concurs, but if an applicant provided their website, SBA could have reviewed it to ensure the applicant's assertions matched how they portrayed themselves as a business to the public. In reviewing the web crawler results, we identified three businesses that have, since our last review, updated their website to show activity in support of their assertions. For example, one entity's website showed it had not hosted a live event since November 2019. The website has been updated to show the entity is hosting live events, but all of these events were outside of the United States. This applicant requires a legal review by SBA to ensure they are not a foreign entity and were eligible to receive funds. The other two applicants' websites did not support eligibility at the time of the award. Additionally, those two applicants were ineligible for other reasons beyond an inactive website.
- SBA provided additional documentation for four live venue applicants to verify a 25-percent loss of gross revenue. While the documentation did verify the loss, the documentation was obtained post-OIG review; therefore, at the time of approval, SBA did not have sufficient information to support approval. Even with this new information that verifies the loss, all four applicants still failed on at least one or more additional eligibility requirements. Therefore, this new information did not change the final determination for eligibility.
- SBA asserted four of the applicants in the live venue operator review were promoters and, therefore, were not required to own or operate a venue. OIG reviewed the applicant files and noted the applicants were reviewed by SBA with a live venue operator checklist and not that of a promoter. Thus, they were held to the eligibility requirements for a live venue operator instead of a promoter. When it comes to owning or operating a venue, the agency asserts that if the applicants did not own or operate a venue, then OIG has merely identified the entity is a promoter due to the similarity between the two entity types. This stance fails to recognize that a promoter needs to demonstrate both a profit interest in the live event and sole or joint rights to control the financial terms of the live event's presentation.[41] If assessed as a live venue operator, the aforementioned eligibility requirement would not have been considered for the

[41] Public Law 116-260, Section 324(a)(3)(A).

applicants the agency asserts to be promoters and, therefore, needs to be met by the applicant before the agency can assert eligibility. We re-reviewed the applicants as promoters rather than live venue operators and still found them to be ineligible based on revenue requirements.

Summary of Actions Necessary to Close the Recommendations

The following section summarizes the status of our recommendations and the actions necessary to close them.

Recommendation 1

To address the issues identified, we recommend the Administrator direct the Associate Administrator for the Office of Disaster Recovery and Resilience to reevaluate eligibility for the 47 applicants we questioned and recover grant funds from the ineligible applicants.

Status: Unresolved

Management agreed with the recommendation in principle and provided documentation they believed reaffirmed eligibility; however, the documentation does not assess eligibility based on statutory requirements. This recommendation can be closed when SBA provides evidence the agency has re-reviewed the 47 grants and ensured the applicants were in fact eligible or that recovery of grant funds is being pursued.

In accordance with our audit follow-up policy, we will attempt to reach agreement with management on the unresolved recommendation. If an agreement is not reached, we will elevate the disputed issue to the designated audit follow-up official.

Recommendation 2

To address the issues identified, we recommend the Administrator direct the Associate Administrator for the Office of Disaster Recovery and Resilience to implement additional controls to ensure that, during the monitoring, auditing, and compliance phases, awards are carefully screened to verify eligibility and to recover grant funds from ineligible entities.

Status: Unresolved

Management agreed with this recommendation in principle but did not provide evidence of controls currently in place, or controls they plan to implement, that would ensure high-risk applicants are reassessed to confirm eligibility to receive SVOG funds. This recommendation can be closed when SBA provides evidence that steps have been incorporated into the monitoring, auditing, and compliance phases that would screen grant recipients for eligibility.

In accordance with our audit follow-up policy, we will attempt to reach agreement with management on the unresolved recommendation. If an agreement is not reached, we will elevate the disputed issue to the designated audit follow-up official.

Appendix 1: Objective, Scope, and Methodology

Objective

Our objective was to perform an assessment of the U.S. Small Business Administration's (SBA) internal controls to prevent ineligible applicants from obtaining a Shuttered Venue Operators Grant (SVOG).

Scope and Methodology

To meet our objective, we reviewed SBA SVOG grant data, policies, and procedures. We also interviewed the Director of the Office of Disaster Assistance Program Policy & Evaluation regarding controls in place and guidance provided to staff and applicants.

We reviewed computer-generated SVOG program reports from Salesforce. We used a web crawler on 10,285 who had provided websites out of 13,011 SVOG total recipients to assess business website functionality and typicality. The web crawler attempted to access each business website homepage and recorded an error if any issues arose when the site was loaded. The web crawler adjusted for minor issues in the provided URLs, including invalid or omitted prefixes (e.g., "https://," "http://," and "www."). We ran the web crawler on 10,285 business websites, and 224 were deemed not fully functional (i.e., page could not be found, security issue, broken website code), and 219 appeared valid but disallowed web crawlers. We selected a sample of 25 SVOGs with websites deemed not fully functional.

The web crawler assessed whether the website had been updated recently using the last modified tag in the website header and whether the homepage had a typical amount of content by recording the numbers of characters, links, and images. We selected a sample of 25 SVOGs with websites containing the lowest content by recorded number of characters and 25 SVOGs with websites with a last modified tag of 2020 or earlier.

The web crawler determined the percentage of sexual words on a webpage based on a dictionary of about 50 prurient sexual words (e.g., "porn," "naked") we developed. Based on the results, we identified 43 applicants with homepages that contained 1 percent or more of sexual words. We also identified 47 applicants with 1 percent or more of sexual words with at least five links from the homepage. This brought our total to 79 SVOGs, after accounting for the overlap between the two sets. We selected all 47 SVOGs with sexual words at least five webpages linked from the homepage because we deemed them high risk for potentially containing performance information. We selected a sample of 25 SVOGs from those with prurient sexual language on their homepages. Accounting for the overlap between the two samples, we reviewed a total of 67 SVOGs with 1 percent or more of sexual words.

Similarly, a dictionary of ticket-related words was used to determine whether there was at least one mention of selling tickets by checking the homepage and up to two levels deep of links to other webpages within the same domain. We selected 25 SVOGs with websites making zero mention of ticket-related words.

In total, we tested 167 grants. To test the grants, we reviewed information found under various sections of the SVOG portal.

Table 1-1: Awards With Risk Identifiers as Identified by Web Crawler Tests

Web Crawler Test	Total Number of Awards	Total Award Value * (dollars)
Last modified December 31, 2020, or earlier	110	$83,492,633
Zero tickets	1,010	766,426,911
Sexually prurient content	79	76,633,603
Not fully functional websites	224	170,299,674
Total	**1,423**	**$1,096,852,821**

* Comprised of initial, reconsideration, supplemental and reconsideration for supplemental awards.
Source: OIG analysis of SVOG data as of July 5, 2022

We also reviewed computer-generated SVOG program reports from SVOG portal to quantify grant award amounts that SBA made to each entity type and selected a sample of 40 SVOGs to live venue operators for this inspection. We identified these grants as high risk because the entity name included bar, brewery, winery, restaurant, or similar information. We limited our review to eligibility requirements that were easily verifiable through document review and web search. To test the 40 grants, we reviewed information found under the “Funding Request Detail,” “Requirements,” “Revenues,” and “Disbursements” sections of the SVOG portal. For each section, we reviewed the “Chatter” – a dialogue section provided on each section of the portal, which allows SVOG staff to discuss application information and upload files – and obtained a copy of the reviewer checklist.

Using a risk-based approach, we identified live venue operators as the most likely entity type to have ineligible applicants, as it appeared to be a catch-all category. Live venue operators are grouped with live venue promotors and make up 4,824 of the awarded applications totaling more than $6 billion. Using a nomenclature review of the applicant's name to segregate potentially legitimate entities, we broke out the entities into three categories: 1) low risk-entities with names including words such as theater, center of arts, and similar terms; 2) moderate-risk entities with names that did not indicate the purpose of the business; and 3) high-risk entities with names that indicated a business other than a live venue, such as bar, brewery, winery, restaurant, or similar business.

Table 1-2: Live Venue Operators and Promoters SVOG Award Data

Risk Category	Number of Grants	Total Value of Grants* (dollars)
Low risk	2,309	$3,227,396,326
Moderate risk	2,391	2,647,589,448
High risk	124	180,899,210
Total	**4,824**	**$6,055,884,984**

* Comprised of initial, reconsideration, supplemental and reconsideration for supplemental awards.
Source: OIG analysis of SVOG data as of July 5, 2022

Use of Computer-processed Data

We relied on computer-generated data from Salesforce published on the SVOG webpage. SBA uses this data to manage the program and derive program statistics. We assessed the reliability of the data through limited testing. We believe the data is sufficiently reliable to support the report conclusions.

We performed this review in accordance with the Council on Inspectors General on Integrity and Efficiency's *Quality Standards for Inspections and Evaluations.* Those standards require that we plan and perform the review to obtain sufficient and appropriate evidence to provide a reasonable basis for our conclusions and observations based on our objective. We believe the evidence obtained provides a reasonable basis for our conclusions and observations based on our objectives.

Appendix 2: Questioned Costs

Under the Inspector General Act of 1978, questioned costs are expenditures that do not comply with legal, regulatory, or contractual requirements; are not supported by adequate documentation at the time of the audit; or are unnecessary or unreasonable.[42] Questioned costs may be remedied by offset, waiver, recovery of funds, the provision of supporting documentation, or contract ratification, where appropriate.

Table 2-1: Office of Inspector General Schedule of Monetary Impact

Description	Amount (dollars)	Explanation
Questioned costs – ineligible live venue operators	$22,878,968	Applicant did not meet all eligibility requirements under Public Law 116-260, Section 324(a) to receive grant

[42] Inspector General Act of 1978, as amended, section 5(f)(1).

Appendix 3: Prior Work

Table 3-1: Office of Inspector General Prior Oversight Work on the U.S. Small Business Administration's Shuttered Venue Operators Grant Program

Report number	Report title	Final report date
SBA OIG 21-13	*Serious Concerns About SBA's Control Environment and the Tracking of Performance Results in the Shuttered Venue Operators Grant Program*	April 7, 2021
SBA OIG 22-15	*SBA'S Award and Payment Practices in the Shuttered Venue Operators Grant Program*	July 5, 2022

Appendix 4: Agency Response

U.S. Small Business Administration

Office of Disaster Recovery and Resilience Response to Report

U.S. Small Business Administration

DATE: August 29, 2023

TO: Hannibal “Mike” Ware
Inspector General

FROM: Francisco Sanchez, Jr.
Associate Administrator
Office of Disaster Recovery and Resilience

SUBJECT: Agency Response and Management Decisions to Office of Inspector General Inspection Report - SBA's Internal Controls To Prevent Shuttered Venue Operator Grants To Ineligible Applicants (Project 21804)

We have reviewed the Office of Inspector General (OIG) draft report for Project 21804, “SBA's Internal Controls to Prevent Shuttered Venue Operator Grants to Ineligible Applicants,” sent on August 1, 2023. Our response to the report follows. The response includes SBA’s position on the finding and recommendations.

We appreciate the opportunity to respond and look forward to further discussing at OIG’s convenience.

Sincerely,

Francisco Sanchez, Jr.
Associate Administrator
Office of Disaster Recovery and Resilience

Executive Summary of Management Comments

The SVOG Covid-19 Emergency Program

The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act signed in December 2020 provided SBA $15 billion in funding to create the Shuttered Venue Operators Grant (SVOG) program. In March 2021, the American Rescue Plan Act provided another $1.25 billion in funding and further modified eligibility criteria.

The guiding purpose of the SVOG program was to provide emergency financial assistance to help eligible entities stay open or reopen (when legally permitted to do so by applicable governmental authorities) in the face of hardships they experienced due to the public health disaster caused by the COVID-19 pandemic.

Furthermore, the SVOG program legislation did not mandate that awards be issued via a competitive process, nor did it impose any performance requirements on grantees. Both of these congressional design decisions further facilitated, and indeed steered the Agency towards, a streamlined approach to grantmaking in the context of the SVOG program.

In March of 2021, the OIG issued Report 21-13 to express concerns with the preliminary design of the SVOG program and its ability to achieve success while mitigating risks. In light of these and other concerns, in June 2021, the Administrator conducted a "refresh" of the SVOG program. Program officials utilized the OMB Uniform Guidance for Grants Management, including 2 CFR § 200.201, 2 CFR § 200.202, and 2 CFR § 200.301, to reevaluate the plan, design, and monitoring of performance for the SVOG program.

SBA's Eligibility Documentation, Do Not Pay List Findings, and Tax Transcript Controls Contradict OIG's Finding

SBA disagrees with OIG's only finding. Of the multiple risk controls for the SVOG program, OIG focuses on only three internal controls, and in doing so provides a mistaken understanding of the changes that were made. For example, the report conflates improving and fixing internal controls as "weakening" controls, despite SBA and the Treasury Department determining the Do Not Pay list search tool was not originally working correctly.

Additionally, because the Report's methodology does not test the three challenged controls, there is no basis for the Report's conclusion that any controls were weakened. The Report does not connect *any* of the three challenged controls to a single ineligible award, and overlooks the effectiveness of SVOG's other pre- and post-award controls. These concerns, including OIG's dismissal of clear evidence that almost 90% of their sample were incorrectly inspected, are likely to cause unwarranted public confusion.

SBA does, however, agree it has a responsibility to reevaluate an eligibility determination when a concern is raised by OIG or other sources. SBA has re-reviewed the files OIG identified as potentially ineligible and re-confirmed 41 of them were clearly awarded properly, with documents on-hand prior to the issuance of this Report which directly contradict and disprove OIG's stated concerns. SBA is still re-reviewing the remaining six awards at the time of submission of this response. If appropriate, SBA will process ineligible entities according to its robust collections procedure.

SBA also agrees with the importance of controls to ensure that SVOG awards are carefully screened during the monitoring, auditing, and compliance phases. Through continual control evaluation and development, SBA has already implemented the controls detailed in the *SBA Audit and Oversight Plan* provided to Congress in December of 2021. SBA remains committed to executing control improvements throughout the SVOG program's lifecycle—as SVOG oversight is ongoing, SBA will continue to resolve eligibility issues and pursue improper payments.

Agency Response and Management Decisions

Finding 1: SBA Weakened Internal Controls and Increased the Risk of Ineligible Entities Receiving SVOG Awards

Response: SBA disagrees with this finding.

The Report finds that SBA significantly weakened internal controls by modifying policies governing the method by which staff 1) noted eligibility findings, 2) used tax transcripts in the review of some applicants, and 3) validated Do Not Pay list matches.

SBA disagrees with the assessment that the modification to these polices impacted overall effectiveness of SVOG internal controls. These controls were designed in the short period between the program's creation and its launch. During this period, the agency worked closely with its Office of General Counsel, Congress, public stakeholders and executive branch partners to design a system to process anticipated applications as quickly as possible while including appropriate controls to prevent fraud, waste, and abuse. Prior to SBA's enhancements, the three modified controls proved to be inadequate and ineffective at accomplishing their intended purpose: managing the risks involved in processing more than 17,600 emergency grant applications within a compressed time period.

The finding in the Report does not consider the effectiveness of the controls before they were modified, nor does it adequately reflect the impact of the cited controls in relation to the full range of policies SBA put in place to reduce the risk of improper payments.

The OIG finding assumes that changes in policies resulted in extra risk, without evidence that any improper payments were made because of those changes. OIG makes no direct connection between the 47 files it questioned and any of the changed controls. SBA has re-reviewed the files OIG identified as potentially ineligible and re-confirmed 41 of them were clearly awarded properly, with documents on-hand prior to this report which directly contradict and disprove OIG's stated concerns. SBA is still re-reviewing the remaining six awards at the time of submission of this response.

The Report's Methodology does not Adequately Test the Three Cited Controls

In the Report, OIG explains it conducted a review of files it first identified using a rudimentary keyword search of SVOG recipient's websites (referred to as a "WebCrawler" in the Report), as well as a keyword search of recipient's formal business names (referred to as "high-risk indicators" in the Report). The Report never explains how this sampling methodology tests the modified controls' impact; rather, the Report pivots from discussing a small fraction of SBA's internal controls to discussing a sample of files where OIG conducted analysis rife with errors, such as misidentifying a Christmas Orchestra as "sexually prurient" and flagging a music venue operator as ineligible because of a tongue-in-cheek LLC name.

The Report Does Not Connect a Cited Control to an Ineligible Award

The Report does not identify a single file award made to an entity accurately on the Do Not Pay list, fails to link any allegedly improper award due to the change in use of tax transcripts, and lacks evidence to support the OIG's assumptions the initial reviewer portal would have prevented mistakes individual reviewers may have made with the manual reviewer checklists. Nowhere does OIG document a single instance where SBA's internal control changes led to even a suspicious award, much less an award confirmed as ineligible or fraudulent.

The Report's Scope and Sampling Do Not Fairly Evaluate Eligibility

For each of the grants where OIG questioned eligibility, SBA provided OIG with file-by file details of SBA's review and subsequent re-review under separate cover. On July 30th and August 1st of 2023, SBA met with OIG to express concerns the provided feedback had not been taking into consideration in this report. At that time, SBA was told that information OIG staff had been unable to locate for themselves in the SVOG Award System would be omitted as "out-of-scope." However, the Report never states the time-frames of OIG's sampling, its analysis, nor when OIG ceased to consider information it may have missed in the case files.

The finding and recommendations of this Report should be consistent with the facts. Information, support, and documentation available at the time of OIG's review, as well as on-file prior to this Report, have not been taken into consideration by this Report, even if only to remediate the Report's questioned costs. This Report continues to promulgate a finding and recommendations based upon an analysis where 41 of 47 sampled files have been shown to have been incompletely reviewed.

Even had OIG's analysis properly considered all the information available for each investigated grant, the Report's sampling methodology does not follow statistical practices which allow for extrapolating results to the program writ-large. While the Council of Inspectors General *Quality Standards for Inspections and Evaluations* do not require "statistically-significant" sampling, the standards do require that inspections findings be appropriately supported by evidence and provide a reasonable basis for conclusions. Evidence obtained through the limited testing of small samples[1] *may not* be sufficient to the extent that it would persuade a knowledgeable person that the findings are reasonable. Appropriate evidence is determined by its relevancy, which is the extent evidence[2] supports the inspection objective.[3]

The Report could easily confuse a reasonable or knowledgeable-person. For example, the Report is inconsistent in the number of files sampled by OIG: the Executive Summary refers to a test sample of "167 grants for general eligibility review…124 grants [for] business names…40 for venue-specific eligibility," while the Report's Introduction and Finding sections refer to a "total sample of 207 SVOG awards." Regardless of the final number, the Report makes no connection to the three questioned changes to SBA's internal controls.

The Report Misrepresents the Effectiveness of the Cited Controls and their Impact on the Overall System of Internal Control

SBA identified the three internal controls named in the Report as inadequate and ineffective at accomplishing their intended purpose. As originally designed, these controls did little to deliver the intended objective of the program and inhibited the review of eligible applications.

Federal government standards are clear that controls should be effective in practice - they must do more than just appear to prevent risk, they must actually work in doing so. A deficiency in internal control exists when the design, implementation, or operation of a control does not allow management or personnel to achieve control objectives and address related risks.[4] Further, control modifications are warranted when there is a high likelihood of the deficiency occurring and a high magnitude of an unwanted impact.[5] Under the circumstances presented, keeping these three deficient controls in place would not have achieved program objectives and it was SBA's duty to make effective modifications to the use of the Do Not Pay List, the use of IRS tax transcripts, as well as the eligibility review process.

Improvements to the use of Treasury's Do Not Pay List

Treasury's Do Not Pay (DNP) Program is intended to prevent improper payments, such as to those previously barred from federal contracts and awards. Modifications the

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[1] Council on Inspectors General on Integrity and Efficiency. (2020). *Quality Standards for Inspections and Evaluations* (Standard No. 4.3).
[2] U.S. Government Accountability Office. (2018). *Government Auditing Standards* (Standard No. 8.92; 8.107; 8.113b).
[3] Council on Inspectors General on Integrity and Efficiency. (2020). *Quality Standards for Inspections and Evaluations* (Standard No. 4.3c).
4 U.S. Government Accountability Office. (2014). Standards for Internal Control in the Federal Government. (Standard No. OV3.07).
5 U.S. Government Accountability Office. (2014). Standards for Internal Control in the Federal Government. (Standard No. 10.05).

program made to data matching with the U.S. Treasury's Do Not Pay list (DNP) did not significantly weaken SBA's internal controls for SVOG.

As the Report acknowledges, under the original data match control, *"8,300 out of the 13,000 applicants at the time had DNP matches."* When reevaluating the effectiveness of this control as initially implemented, it was obvious to SBA that something was wrong with the original control design. 64% of the nation's applying arts industry could not plausibly be on the DNP list, particularly considering that only 3% of applicants received prior federal awards. Under the circumstances, continuing to use inaccurate data and forcing innumerable "false positives" through a complex, multi-agency cure process would have been an unnecessary burden, rather than an effective control.

To obtain more accurate, reliable, and factual results, as well as properly utilize the DNP database for its intended purpose, SBA updated its data matching agreement with revised data sources and DNP checks continued as part of the SBA's process of making SVOG awards.

SBA took the appropriate action required to correct the DNP database control and the Report should reflect that, by increasing the veracity of the DNP data match, SBA developed the proper corrective action when a control was not working as needed.

Changes to the use of IRS Tax Transcripts

SBA's changes to its use of the IRS tax transcript did not significantly weaken SBA's internal controls for SVOG. The Report states that "*SBA believed the benefits of this check, such as verifying identity and validating 2019 income, could be achieved using applicant provided data*" despite "*the challenges identified with similar approaches in SBA's other pandemic relief programs.*"

The analogy between SVOG and other agency relief programs is inaccurate. Unlike other COVID relief programs, SVOG applicants were required to provide significantly more than just tax data to support eligibility and the amount of the award, permitting several other effective ways for SBA to determine the accuracy of claimed earned revenue.

SBA identified that the SVOG program was less reliant on tax transcripts than its other lending and relief programs and could prioritize how many requests it sent. SVOG awards are based on "earned revenues," which is not a tax field on any tax return forms utilized by IRS, leading SBA to also require substantial additional revenue and profit & loss documentation from applicants to verify earned revenue. For all grants, SBA conducted additional follow-ups and information requests for tax returns, as well as required detailed financial statements, and earnings records if applicants disputed the size of their award, were denied a grant, or sought supplemental funds.

The cumulative use of many other revenue source documents in the funding requests, such as tax returns, profit and loss statements, and pre-pandemic financial audits, provided similarly effective controls for low-risk applicants without further delay in processing awards. As with the DNP control, the Report also fails to link any allegedly improper award to the change in this specific control. The Report should reflect the limited utility of tax transcripts in verifying earned revenue and consider the totality of the controls SBA utilized for calculating SVOG awards.

The use of Manual Reviewer Checklists

There is no evidence in the Report to support the conjecture that utilizing manual reviewer checklists provided "*no assurance the entities receiving these awards were eligible, resulting in a waste of government funds that could have been used to assist others.*" The Report does not provide appropriate or relevant evidence to support the conclusion that the refreshed manual reviewer checks were less effective as a control than the initially planned system driven checks. In practice, utilizing a manual reviewer checklist to process SVOG funding requests proved to be a more accurate method to screen applicants for eligibility than the initially planned system driven checks.

Once application reviews started, SBA quickly identified that the portal was not conducive to efficient application review and processing. Marking one response as "fail" in the SVOG award system would not accurately identify the applicant as ineligible. For example, a live venue operator could "fail" on the 70% revenue response but could be eligible if they met the advanced ticket sales criteria. However, the SVOG award system formatted the prompts in such a way that it was difficult to track alternative paths to eligibility determinations. This original portal system also required each reviewer to click through over 20 separate eligibility criteria to note compliance and required subsequent approvers to separately review each eligibility requirement and any related comments through this same cumbersome process.

The cumbrous review and processing of applications using the SVOG award system alone necessitated the implementation of entity specific manual checklists during the SVOG program "refresh." The refreshed checklists contained reiterations of the statutory eligibility requirements, SBA's policy interpretations, citations to the program's public FAQs and guidance, a structured and tiered framework for how SBA intended for applicants to be evaluated, and multiple opportunities for supervisory and management re-review and analysis. The refreshed checklists brought together multiple resources consolidated into a single document. Contrary to only using the award system to process applications, the addition of "manual" checklists allowed for accelerated program development, in-line citations and policy instruction, rapid revision, and a consistent, repeatable structure for every review process.

Accordingly, the conclusion that the use of manual checklists in lieu of strictly processing applications within the SVOG portal provided no "assurance the entities receiving these awards were eligible, resulting in a waste of government funds that could have been used to assist others" is unfounded.

The Report Disregards the Effectiveness of Other Controls

By only spotlighting three specific controls and overlooking the effectiveness of all other pre- and post-refresh controls in place, the Report paints a misleading picture of SBA's internal control system. Numerous program-level controls were developed to detect and correct the risks of noncompliance with relevant laws, regulations, and federal standards. The SVOG program staff conduct regular internal risk management assessments and respond to external risk management assessments. In doing so, identifying program risks, evaluating the effectiveness of existing controls to mitigate those risks, and modifying existing controls when necessary to further reduce a risk is an ongoing practice within the SVOG program.

SBA uses a multitude of controls, including preventative controls that decrease the chance of errors and fraud before they occur and detective controls to provide evidence that the preventive controls are operating as intended. Additional controls detect irregularities post-award. The following are examples of controls that have remained in place since the SVOG program's inception:

Detective Controls

- **Fraud Risk Assessments;**
- **Entity Level Control Assessments;**
- **Internal Controls Improper Payment Audits; and**
- **Program level evaluations conducted with SBA's Office of Performance, Planning, and the Chief Financial Officer**

Preventative Controls

- **Technological controls to prevent unauthorized access;**
- **Technological controls to automate processes;**
- **Use of end-user software that provides descriptive labels, help texts, built-in input validations, real-time checks for rules and constraints defined by the statutes governing the program;**
- **Separation of duties combined with authorization and approval processes;**
- **Training for employees and stakeholders;**
- **Reviews to identify potential indicators of program fraud; and**
- **Assessments of recipient flags to mitigate concerns with eligibility, award-size, finances, or unresponsiveness**

The SVOG program has detailed the broad nature of its controls to OIG on prior occasions, beginning with the responses to OIG Report 21-13, and most recently in response to FY2023 Management Challenge 8. These controls are discussed and detailed again in the Appendix of that response. SVOG continues to strengthen program components such as its control environments, risk assessments, control activities, information communication, and monitoring to ensure all components continue operating in an integrated manner.

Given this extensive set of risk controls developed and continually improved since the program's inception, it is disappointing that the Report focuses on only three allegedly weakened controls to reach its conclusions and its recommendation that SBA needs to develop additional, unspecified, post-award controls. A more complete discussion of the SVOG control environment would avoid giving the mistaken impression that SVOG efforts to mitigate risk have been anything less than comprehensive.

Recommendation 1: Reevaluate Eligibility For The 47 Applicants We Questioned And Recover Grant Funds From Ineligible Applicants

Response: SBA agrees that SBA has a responsibility to reevaluate an eligibility determination when a concern is raised by OIG and has completed the reevaluations of the questioned 47 Applicants.

SBA agrees with the principle that it has a responsibility under the Payment Integrity Information Act of 2019 to "…promptly detect and recover improper payments that are made" and has reevaluated the eligibility of the 47 applicants purported as ineligible in the Report. A detailed summary of this review was provided to OIG in May 2023, noting that the SVOG program determined that 41 of these files clearly met eligibility criteria. For those awards identified as potentially ineligible, these grantees are being given an opportunity to address the eligibility concerns through the SVOG's Quality Assurance and Monitoring process. If the grantee cannot resolve the eligibility issues identified, they will be referred to the award recoupment process.

OIG's sample was limited to two grantee types which OIG considered high-risk, specifically live venue operators with "bar," "brewery," "winery," "restaurant," in the grantee's legal name as well as grantees flagged by WebCrawler software that searched for words (or the absence of words) that OIG considered raised suspicions about their eligibility.

SBA identified several categories of concern with the OIG's analysis of eligibility criteria for the questioned files that led to the different eligibility conclusions on these files, including: (1) Failure to holistically review the files and use documents and evidence outside a specific response that demonstrates applicants meet the eligibility requirements, (2) Misunderstanding the requirement of live venue operators/promotors to own or operate the venue location, (3) Improperly strict interpretations of the principal or primary business activity requirements, and (4) Misidentification of files with "sexual prurient interest" concerns, combined with a different application of OGC's directives.

Failure to use Eligibility Documents and Information Within the Files or Online

In many instances, it appears that the eligibility concerns raised by OIG did not account for information readily available within the file or easily available online. While the Report criticizes the SVOG program for adopting a reduced time goal for completing each file review, the program believes that OIG's findings would have benefited from a more thorough review of the available information within the file which was used to support the eligibility determinations. The holistic review of each file should have identified many documents that directly address the eligibility concerns raised by OIG.

The following example demonstrate the type of information that OIG appears to have overlooked within a specific file it reviewed. A live venue operator awarded nearly $4.5 million was determined by OIG to have failed the principal business activity eligibility requirement. However, in the application file made available to OIG were marketing materials showing nearly daily musical performances from its September 2019 opening through its March 2020 closure, including performances by prominent major label artists. The applicant also provided links to ticket sales, including some links reflecting tickets offered for sale as early as seven months before a show, and the applicant's provided revenue information showing over 85% of revenue from tickets or beverages was not appropriately credited. With nearly daily qualifying live performances during peak operating hours, it is reasonable to accept the applicant's representation that 70% of revenue was derived from qualifying events. Yet OIG appears to have failed to either locate or appropriately credit this evidence in the file when questioning this entity's eligibility.

<u>Ownership or Operation of the Live Venue Location</u>

Four awards were identified as ineligible for not being "live venue operators." SBA reviewed these entities and found they operated at qualifying venues. The law, policy, and procedures which regulate eligibility for the Shuttered Venue Operators Grant do not require the eligible entity to directly own or "work for" the venue; there is also no requirement for the venue location to be static or "permanent," e.g., a concert on a boat or a temporary festival stage can be eligible.

OIG also fails to recognize the nearly identical eligibility requirements of live venue operators and promotors. If an applicant organizes and presents qualifying live events but does so at a venue owned or operated by a separate entity, it meets the statute's definition of eligible live venue promotor. Therefore, if OIG correctly determined that an entity was eligible but for its failure to own or operate the venue, all OIG has done is made the determination that these entities are eligible as promotors. Concluding they did not own or operate the venue in this situation does not disqualify them from an SVOG award.

<u>Principal Business Activity</u>

More than half of OIG's sample was identified as failing to have an eligible principal business activity. With regard to establishing that 70% of the applicant's revenue is derived from live performances, OIG appears to demand that applicants provide unreasonably precise, granular documentation of their 2019 event revenue. However, demanding that applicants provide such detailed records for 2019 is unreasonable when they would have no reason, in 2019, to believe keeping such records was needed to receive an emergency government grant in 2021.

OIG fails to recognize that the entities with “restaurant,” “brewery,” “bar” and similar words in their names that applied for SVOG awards made the election to forgo Restaurant Revitalization Fund grants. Entities could not receive both awards. In electing to pursue the SVOG, these entities were demonstrating their good faith belief that they met the eligibility requirements. Further, they were electing SVOG as their only option for COVID emergency grant funds.

Under these circumstances, SBA found it appropriate to credit the applicants’ sworn statements that 70% of their revenue derived from qualifying live performances where this was supported by a holistic review of the file. This includes a review of not just the supporting documents for the particular eligibility requirement, but also performance calendars, profit and loss statements, tax information, marketing materials, websites, and other readily available information about the applicant.

By failing to review these files with a similar holistic approach, OIG applies different review criteria then was properly applied by the SVOG program. OIG’s strict and narrow approach would have left numerous applicants without any avenue to receive funds from any COVID relief program, undermining Congress’ goal of broadly supporting the various industries impacted by lengthy business closures.

After a comprehensive review of the files OIG questioned, the program found two where it agreed with OIG’s assessment that the entity did not sufficiently demonstrate meeting the principal business activity test. Those applicants are being given a chance to provide further supporting information. If they are unable to do so, these files will be referred for recoupment.

The Report should clarify that determining the principal business activity of an entity required a more holistic approach that considers both the emergency nature and goals of the SVOG program and the challenge of requiring documents showing the exact amount of revenue associated specifically with only applicant’s qualifying live events.

Misidentification of Files with “Sexual Prurient Interest” Concerns

The Report makes some significant claims relating to grantees who potentially derive revenue from activity considered “sexual prurient.” These include the claim that OIG’s WebCrawler identified 79 files with awards of $76,633,603 with alleged sexually prurient content on their websites. After further review, OIG concludes that just five had website content suggesting they were ineligible for SVOG, or that further investigation was needed to confirm eligibility.

This appears to be a factual error by OIG. Two of the five files identified as “sexual prurient” by OIG even after its further review do not appear to have any such issues at all. One talent representative awarded about $1.5 million is the manager of only mainstream musical acts including a band which conducts a prominent annual holiday musical tour. Another was a live venue operator awarded nearly $2.5 million that describes itself as an “adult arcade” with pinball and video games accompanied by frequent shows from mainstream musical and comedy acts.

The program believes the identification of these two files further undermines the reliability of both the initial WebCrawler review as well as OIG’s consideration of the flagged files.

With regard to the other files, SBA agrees that one does appear to clearly raise issues of eligibility and is undergoing further review and will be referred to recoupment if appropriate. For the remainder, SVOG believes OIG did not properly apply the Office of General Counsel’s memo and direction to the SVOG program relating to the definition of prurient sexual interest. Review of these files must recognize the potential First Amendment concerns raised by denials on this issue and associated litigation risk, as well the historic production and acceptance of shows including burlesque themes and sexual elements in the performing arts community from the earliest days of theater through the present.

Corrective Actions Taken

The following corrective actions took place prior to the issuance of the Final Report. SBA first reevaluated the eligibility of applicants identified as ineligible in January 2022 and provided the OIG a detailed summary of the review that same month. In April 2023, SBA reevaluated the eligibility of applicants being identified as ineligible a second time. A detailed summary of the second review was provided to OIG in May 2023.

The SVOG program determined that 41 of the files reevaluated met eligibility criteria. The 6 entities identified as potentially ineligible, were notified of their opportunity to address the eligibility concerns through the SVOG quality assurance and monitoring process.

Recommendation 1 appears to be moot and unnecessary to promote the economical, efficient, and effective operation of the SVOG program office as the actions detailed below have been completed or are already in development.

Corrective Actions:

Corrective Actions Planned	Target Completion Dates
Conduct quality assurance eligibility reviews of files OIG identified.	Completed
Request potentially ineligible entities resolve eligibility issues.	Completed
Allow potentially ineligible entities time to address eligibility concerns.	September 2023

Refer entities deemed to be ineligible to recoupment process.	November 2023

Recommendation 2: Implement Additional Controls to Ensure that During the Monitoring, Auditing, and Compliance Phases, Awards are Carefully Screened to Verify Eligibility and Recover Grant Funds from Ineligible Entities

Response: SBA agrees with the importance of implementing necessary controls to ensure that, during the monitoring, auditing, and compliance phases, SVOG awards are carefully screened to verify eligibility and recover grant funds from ineligible entities. SBA has already implemented additional controls through continual control evaluation and development as well as implementing improvements throughout the SVOG program's lifecycle.

SBA agrees with the principle that comprehensive post-award controls are necessary to ensure SVOG awards are carefully screened and improperly awarded grant funds are recovered. Categorically, the development, testing and improvements to SVOG program controls has been ongoing since the passage of the SVOG statute by Congress. In early 2021, the SVOG program began to contemplate and plan controls for its monitoring, audit, and compliance strategy which incorporates the Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, commonly called "Uniform Guidance." The controls governing these post-award phases are communicated in the *SBA Audit and Oversight Plan.* The *SBA Audit and Oversight Plan* was developed at the direction of Congress and initially submitted to Congress in February 2021, and updated and expanded in December of 2021.

To ensure the careful screening of SVOG awards and to verify eligibility during the audit and oversight stage of the grant lifecycle, the SVOG program regularly reviews and strengthens the *SBA Audit and Oversight Plan*. For example, SBA has refined the for its monitoring, audit, and compliance strategy to further detail risk factors that identify grantees for monitoring, and developed the specific policies and guidelines to assist SVOG staff implement these processes. In fiscal year 2023, as most SVOG grants begin to reach the audit, monitoring and close out stage of the grant lifecycle, SBA finalized its framework for a comprehensive monitoring, audit, and compliance strategy.

The Report Dismisses SVOG's Other Pre-Refresh and Post-Refresh Controls

Detective Controls

To mitigate potentially fraudulent activity, SVOG conducts annual Fraud Risk Assessments (FRA). FRAs address fraud as well as risk tolerance and contain a mitigation plan for the risk schemes identified, including the identification of additional controls designed to reduce those risks. SBA's Fraud Risk Management Board (FRMB) effectively mitigates, manages, and monitors fraud risks across the agency. The FRMB voted to approve SVOG's latest FRA in March 2023.

For the purpose of refining and mitigating risks, SVOG and its internal partners conduct annual Entity Level Control (ELC) Assessments. ELC Assessments evaluate the components designed and implemented within a system of internal control. SVOG provides each ELC Assessment to the ODR&R Internal Controls (OIC) division. Additionally, ODR&R OIC and SVOG partner to develop monitoring controls to ensure implementation of an effective internal control environment.

SBA's program level evaluation function is housed in the Office of Performance, Planning, and the Chief Financial Officer (OPP&CFO). OPP&CFO in conjunction with SVOG perform and document internal control evaluations that include entity level controls, manual controls, general information technology controls, and system application controls. Through strategic planning and program evaluations, SVOG and OPP&CFO partner in the development of results-driven activities and controls that strengthen its system of internal control as well as address identified deficiencies. OPP&CFO drafts a Process Narrative outlining the key functions, key systems, and key internal controls identified in the documentation prepared for each grant management phases/processes.

<u>Preventative Controls</u>

Preventative controls to decrease the chance of errors and fraud before they occur. These include, but are not limited to the separation of duties, using systems of checks and balances, authorization and approval processes, access controls, and employee screening and training.

SVOG's technical support staff and the Office of the Chief Information Officer monitor and improve technological solutions to ensure business rules, policies, procedures, and program requirements are enforced and complied with internally and externally, to prevent unauthorized access, and to automate processes to ensure consistency, auditability, and equity in program actions across SBA offices. SVOG's end-user software interface provides descriptive labels, help texts, built-in input validations, real-time checks for rules and constraints defined by the statutes governing the program.

SBA also trains and staffs an SVOG Program Integrity Vertical composed of several teams dedicated to supporting SVOG's system of internal controls. There is a team to identify potential indicators of program fraud and if further investigation or action is warranted, to make referrals to law enforcement agencies. There is a team that conducts assessments of grantee flags from any source and take appropriate corrective actions to mitigate eligibility, award-size, financial, or other concerns surrounding awards. There is also a team to mitigate the risk of grantees becoming non-compliant through unresponsiveness.

SBA trains and staffs an SVOG Grants Management Vertical composed of teams dedicated to supporting grant recipients and teams dedicated to implementing SVOG's post- award Monitoring and Compliance (MAC) strategy. Each awarded funding request is assigned a Grant Management Specialist (GMS) to assist the grantee, which mitigates the risk of inadvertent misappropriations while also providing SBA with granular capacity to observe and report suspicious activity.

To increase grantee understanding of federal assistance norms and regulations, SBA developed trainings for grantees and opportunities for grantees to seek technical assistance.

SVOG continues to strengthen program components such as its control environments, risk assessments, control activities, information, and communication, and monitoring to ensure all components continue operating in an integrated manner. Given the extensive risk controls developed and continually improved since the program's inception, it is disappointing that the Report focuses on only three proven inadequate controls to reach its conclusions and its recommendation that SBA needs to develop additional, unspecified, post-award controls. A more complete discussion of the SVOG control environment would avoid giving the mistaken impression that SVOG efforts to mitigate risk have been anything less than comprehensive.

The Report should reflect the wide breadth of controls that remained in place after the "program refresh" and give credit to SBA's continuing efforts to measure the effectiveness of and improve these controls, rather than continue its narrow focus on vital modifications made to only three controls.

Corrective Actions Taken

Because the development, testing and improvements to SVOG program controls has been ongoing since Congress passed the SVOG statute, the following corrective actions occurred prior to the issuance of the Final Report. The *SBA Audit and Oversight Plan* was initially submitted to Congress in February 2021. An updated *SBA Audit and Oversight Plan* was submitted to Congress in December 2021. In fiscal year 2023, SBA finalized its framework for a comprehensive monitoring, audit, and compliance strategy; however, SVOG continues to review and strengthen the *SBA Audit and Oversight Plan* regularly to ensure the careful screening of awards to verify eligibility persist throughout the program's audit and oversight stages.

SVOG conducted Fraud Risk Assessments in 2022 and 2023. SBA's Fraud Risk Management Board approved SVOG's latest FRA in March 2023. SVOG conducted Entity Level Control Assessments in 2022 and 2023 and provided each assessment to the ODR&R Internal Controls division. Since the program office's inception, SVOG in conjunction with OPP&CFO has performed and documented internal control evaluations that included entity level controls, manual controls, general information technology controls, and system application controls. Likewise, SVOG and OPP&CFO partnered in the development of results-driven activities and controls to strengthen SVOG's system of internal control as well as address identified deficiencies. To further decrease the chance of errors and fraud before they occurred, preventative controls, such as the separation of duties, checks and balances, authorization and approval processes, access controls, and training employees and stakeholders, were ingrained into each program phase.

Recommendation 2 appears to be moot and unnecessary to promote the economical, efficient, and effective operation of the SVOG program office as the actions detailed above have been completed and the actions detailed below are already in development.

Corrective Actions:

Corrective Actions Planned	Target Completion Date
Provide original and updated *SVOG Audit and Oversight Plan* to Congress.	Completed
Through the existing Audit, Monitoring and Compliance processes, request identified potentially ineligible entities to resolve eligibility issues.	Ongoing
Allow potentially ineligible entities time to address eligibility concerns.	Ongoing
Review responses from potentially ineligible entities.	Ongoing
Refer entities deemed to be ineligible to recoupment process.	October 2023

Conclusion

In conclusion, SBA disagrees with the finding that policy changes undertaken as part of the ‘program refresh’ resulted in significantly weakened internal controls. As detailed in our full response, the cited controls were not effective as originally designed. By modifying these controls, SBA was able to more effectively provide much-needed emergency relief to eligible entities without increasing the risk of improper payments.

SBA stays committed to developing and implementing meaningful process improvements as control deficits are identified. As such, SBA pre-emptively undertook Recommendation 1 to re-evaluate the 47 applications questioned in the report. Our review of the files only found eligibility issues for 6 files, which are being addressed through existing post-award quality assurance controls. The other questioned applications were largely a result of misunderstandings regarding eligibility determinations, rather than weakened internal controls. This point is further demonstrated by the fact that the Report neglects to directly link any questioned costs to changes implemented as part of the program refresh.

It may provide better service to the public and better stewardship of resources to close the recommendations without the formal audit resolution and closure package process. The issues identified in the Report have been resolved with corrective actions prior to the recommendations even being made: SBA has already reevaluated the eligibility for the 47 applicants questioned, implemented additional controls to ensure awards are carefully screened during the monitoring, auditing, and compliance phases, and developed a process to recover grant funds from ineligible entities.