

§ 120.214

13 CFR Ch. I (1-1-01 Edition)

(b) *Direct loans.* A statutory formula based on the cost of money to the Federal government determines the interest rate on direct loans. SBA publishes the rate periodically in the FEDERAL REGISTER.

§ 120.214 What conditions apply for variable interest rates?

A Lender may use a variable rate of interest, upon SBA's approval. SBA's maximum allowable rates apply only to the initial rate on the date SBA received the loan application. SBA shall approve the use of a variable interest rate under the following conditions:

(a) *Frequency.* The first change may occur on the first calendar day of the month following initial disbursement, using the base rate (see paragraph (c) of this section) in effect on the first business day of the month. After that, changes may occur no more often than monthly.

(b) *Range of fluctuation.* The amount of fluctuation shall be equal to the movement in the base rate. The difference between the initial rate and the ceiling rate may be no greater than the difference between the initial rate and the floor rate.

(c) *Base rate.* The base rate shall be the prime rate in effect on the first business day of the month, printed in a national financial newspaper published each business day, or the SBA Optional Peg Rate which SBA publishes quarterly in the FEDERAL REGISTER.

(d) *Maturities under 7 years.* For loans with maturities under seven years, the maximum interest rate shall not exceed two and one-quarter (2 1/4) percentage points over the base rate.

(e) *Maturities of 7 years or more.* For loans with maturities of seven or more years, the maximum interest rate shall not exceed two and three-quarters (2 3/4) percentage points over the base rate.

(f) *Amortization.* Initial amortization of principal and interest may be recomputed and reassessed as interest rates fluctuate, as directed by SBA. With prior approval of SBA, the Lender may use certain other amortization methods, except that SBA does not allow balloon payments.

§ 120.215 What interest rates apply to smaller loans?

For a loan over \$25,000 but not exceeding \$50,000, the interest rate may be one percent more than the maximum interest rate described above. For a loan of \$25,000 or less, the maximum interest rate described above may be increased by two percentage points.

[61 FR 3235, Jan. 31, 1996; 61 FR 7986, Mar. 1, 1996]

FEEES FOR GUARANTEED LOANS

§ 120.220 Fees that Lender pays SBA.

(a) The Lender pays a guarantee fee to SBA for each loan as follows:

Guaranteed portion of loan	Fee measured as percentage of guaranteed portion	When payable	Lender may get fee from borrower	When SBA refunds fee from borrower
12 Months or less25%	With Guarantee Application.	When SBA Approves Loan.	If Application Withdrawn or Denied. ¹
More Than 12 months and Total Guaranteed Portion Is \$80,000 or Less.	2.0% of Guaranteed Portion.	Within 90 days of SBA Approval.	After First Disbursement.	If Loan Cancelled and Never Disbursed.
More Than 12 Months and Amount of Guaranteed Portion of Loan That Is \$250,000 or Less.	3%	Within 90 Days of SBA Approval.	After First Disbursement.	If Loan Cancelled and Never Disbursed.
More Than 12 Months and Amount of Guaranteed Portion of Loan Between \$250,000 and \$500,000.	3.0% of 1st \$250,000 plus 3.5% of balance.	Within 90 Days of SBA Approval.	After First Disbursement.	If Loan Cancelled and Never Disbursed.
More Than 12 Months and Amount of Guaranteed Portion of Loan Exceeding \$500,000.	3.0% of 1st \$250,000 plus 3.5% of next \$250,000 plus 3.875% of the Amount Exceeding \$500,000.	Within 90 Days of SBA Approval.	After First Disbursement.	If Loan Cancelled and Never Disbursed.

¹ Also, if SBA substantially changes the Lender's loan terms and approves the loan, but the modified terms are unacceptable to the Borrower or Lender. (The Lender must request refund in writing within 30 calendar days of the approval).

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(b) If the guarantee fee is not paid, SBA may terminate the guarantee. The Borrower may use working capital loan proceeds to reimburse the Lender for the guarantee fee. Acceptance of the guarantee fee by SBA shall not waive any right of SBA arising from the Lender's misconduct or violation of any provision of this part, the guarantee agreement, the Authorization, or other loan documents.

(c) The Lender shall also pay SBA an annual service fee equal to 0.5 percent of the outstanding balance of the guaranteed portion of each loan. The service fee cannot be charged to the Borrower. SBA may institute a late fee charge for delinquent payments of the annual service fee to cover administrative costs associated with collecting delinquent fees.

[61 FR 3235, Jan. 31, 1996; 61 FR 11471, Mar. 20, 1996]

§ 120.221 Fees which the Lender may collect from a loan applicant.

(a) *Service and packaging fees.* The Lender may charge an applicant reasonable fees (customary for similar Lenders in the geographic area where the loan is being made) for packaging and other services. The Lender must advise the applicant in writing that the applicant is not required to obtain or pay for unwanted services. The applicant is responsible for deciding whether fees are reasonable. SBA may review these fees at any time. Lender must refund any such fee considered unreasonable by SBA.

(b) *Extraordinary servicing.* Subject to prior written SBA approval, if all or part of a loan will have extraordinary servicing needs, the Lender may charge the applicant a service fee not to exceed 2 percent per year on the outstanding balance of the part requiring special servicing.

(c) *Out-of-pocket expenses.* The Lender may collect from the applicant necessary out-of-pocket expenses such as filing or recording fees.

(d) *Late payment fee.* The Lender may charge the Borrower a late payment fee not to exceed 5 percent of the regular loan payment.

(e) *No prepayment fee.* The Lender may not charge a fee for full or partial prepayment of a loan.

§ 120.222 Fees which the Lender or Associate may not collect from the Borrower or share with third parties.

The Lender or its Associate may not:

(a) Require the applicant or Borrower to pay the Lender, an Associate, or any party designated by either, any fees or charges for goods or services, including insurance, as a condition for obtaining an SBA guaranteed loan (unless permitted by this part);

(b) Charge an applicant any commitment, bonus, broker, commission, referral or similar fee;

(c) Charge points or add-on interest;

(d) Share any premium received from the sale of an SBA guaranteed loan in the secondary market with a Service Provider, packager, or other loan-referral source; or

(e) Charge the Borrower for legal services, unless they are hourly charges for requested services actually rendered.

Subpart C—Special Purpose Loans

§ 120.300 Statutory authority.

Congress has authorized several special purpose programs in various subsections of section 7(a) of the Act. Generally, 7(a) loan policies, eligibility requirements and credit criteria enumerated in subpart B of this part apply to these programs. The sections of this subpart prescribe the special conditions applying to each special purpose program. As with other business loans, special purpose loans are available only to the extent funded by annual appropriations.

DISABLED ASSISTANCE LOAN PROGRAM (DAL)

§ 120.310 What assistance is available for the disabled?

Section 7(a)(10) of the Act authorizes SBA to guarantee or make direct loans to the disabled. SBA distinguishes two kinds of assistance:

(a) *DAL-1.* DAL-1 Financial Assistance is available to non-profit public or private organizations for disabled individuals that employ such individuals; or

(b) *DAL-2.* DAL-2 Financial Assistance is available to: