

§ 120.120

the loan (the trustee shall execute the guarantee on behalf of any trust).

(b) *Additional conditions that apply to trusts.* The eligibility status of the trustor will determine trust eligibility. All donors to the trust will be deemed to have trustor status for eligibility purposes. A trust qualifying as an Eligible Passive Company may engage in other activities as authorized by its trust agreement. The trustee must warrant and certify that the trust will not be revoked or substantially amended for the term of the loan without the consent of SBA. The trustor must guarantee the loan. For purposes of this section, the trustee shall certify to SBA that:

- (1) The trustee has authority to act;
- (2) The trust has the authority to borrow funds, pledge trust assets, and lease the property to the Operating Company;
- (3) The trustee has provided accurate, pertinent language from the trust agreement confirming the above; and
- (4) The trustee has provided and will continue to provide SBA with a true and complete list of all trustors and donors.

[61 FR 3235, Jan. 31, 1996; 61 FR 7986, Mar. 1, 1996, as amended at 64 FR 2117, Jan. 13, 1999]

USES OF PROCEEDS

§ 120.120 What are eligible uses of proceeds?

A small business must use an SBA business loan for sound business purposes. The uses of proceeds are prescribed in each loan's Authorization.

(a) A Borrower may use loan proceeds from any SBA loan to:

- (1) Acquire land (by purchase or lease);
- (2) Improve a site (e.g., grading, streets, parking lots, landscaping), including up to 5 percent for community improvements such as curbs and sidewalks;
- (3) Purchase one or more existing buildings;
- (4) Convert, expand or renovate one or more existing buildings;
- (5) Construct one or more new buildings; and/or
- (6) Acquire (by purchase or lease) and install fixed assets (for a 504 loan, these assets must have a useful life of at

13 CFR Ch. I (1-1-03 Edition)

least 10 years and be at a fixed location, although short-term financing for equipment, furniture, and furnishings may be permitted where essential to and a minor portion of the 504 Project).

(b) A Borrower may also use 7(a) and microloan proceeds for:

- (1) Inventory;
- (2) Supplies;
- (3) Raw materials; and
- (4) Working capital (if the Operating Company is a co-Borrower with an Eligible Passive Company, part of the loan proceeds may be applied for working capital if used for that purpose only by the Operating Company).

(c) A Borrower may use 7(a) loan proceeds for refinancing certain outstanding debts.

§ 120.130 Restrictions on uses of proceeds.

SBA will not authorize nor may a Borrower use loan proceeds for the following purposes (including the replacement of funds used for any such purpose):

- (a) Payments, distributions or loans to Associates of the applicant (except for ordinary compensation for services rendered);
- (b) Refinancing a debt owed to a Small Business Investment Company ("SBIC");
- (c) Floor plan financing or other revolving line credit, except under § 120.390;
- (d) Investments in real or personal property acquired and held primarily for sale, lease, or investment (except for a loan to an Eligible Passive Company or to a small contractor under § 120.310);
- (e) A purpose which does not benefit the small business; or
- (f) Any use restricted by §§ 120.201 through 120.203 and 120.884 (specific to 7(a) loans and 504 loans respectively).

§ 120.131 Leasing part of new construction or existing building to another business.

(a) If the SBA business loan involves the construction of a new building, a Borrower may lease up to 33 percent of the Rentable Property for a short term to any third party if reasonable growth projections show that the Borrower will need additional space within three