

§ 120.180

evidence to support or document compliance with these laws, including reports required by applicable statutes or the regulations in this chapter.

ENFORCEABILITY DESPITE RULE CHANGES

§ 120.180 Are rules enforceable if they are changed later?

Regulations and contractual provisions in effect at the time of a transaction govern an SBA loan financing transaction, notwithstanding subsequent rule or contract changes. SBA may conduct an enforcement action regarding any violation of provisions of regulations or contracts applicable at the time, but no longer in effect or in use.

LOAN APPLICATIONS

§ 120.190 Where does an applicant apply for a loan?

An applicant for a business loan should apply to:

- (a) A Lender for a guaranteed or immediate participation loan;
 - (b) A CDC for a 504 loan;
 - (c) An Intermediary for a Microloan;
- or
- (d) SBA for a direct loan.

§ 120.191 The contents of a business loan application.

For most business loans, SBA requires that an application for a business loan contain, among other things, a description of the history and nature of the business, the amount and purpose of the loan, the collateral offered for the loan, current financial statements, historical financial statements (or tax returns if appropriate) for the past three years, IRS tax verification, and a business plan, when applicable. Personal histories and financial statements will be required from principals of the applicant (and the Operating Company, if applicable).

§ 120.192 Approval or denial.

Applicants receive notice of approval or denial by the Lender, CDC, Intermediary, or SBA, as appropriate. Notice of denial will include the reasons. If a loan is approved, an Authorization will be issued.

13 CFR Ch. I (1-1-07 Edition)

§ 120.193 Reconsideration after denial.

An applicant or recipient of a business loan may request reconsideration of a denied loan or loan modification request within 6 months of denial. Applicants denied due to a size determination can appeal that determination under part 121 of this chapter. All others must be submitted to the office that denied the original request. To prevail, the applicant must demonstrate that it has overcome all legitimate reasons for denial. Six months after denial, a new application is required. If the reconsideration is denied, a second and final reconsideration may be considered by the Associate Administrator for Financial Assistance (AA/FA), whose decision is final.

COMPUTERIZED SBA FORMS

§ 120.194 Use of computer forms.

Any Applicant or Participant may use computer generated SBA application forms, closing forms, and other forms designated by SBA if the forms are exact reproductions of SBA forms.

REPORTING OF FEES

§ 120.195 Disclosure of fees.

An Applicant for a business loan must identify to SBA the name of each Agent as defined in part 103 of this chapter that helped the applicant obtain the loan, describing the services performed, and disclosing the amount of each fee paid or to be paid by the applicant to the Agent in conjunction with the performance of those services.

Subpart B—Policies Specific to 7(a) Loans

BONDING REQUIREMENTS

§ 120.200 What bonding requirements exist during construction?

On 7(a) loans which finance construction, the Borrower must supply a 100 percent payment and performance bond and builder's risk insurance, unless waived by SBA.

Small Business Administration

§ 120.214

LIMITATIONS ON USE OF PROCEEDS

§ 120.201 Refinancing unsecured or undersecured loans.

A Borrower may not use 7(a) loan proceeds to pay any creditor in a position to sustain a loss causing a shift to SBA of all or part of a potential loss from an existing debt.

§ 120.202 Restrictions on loans for changes in ownership.

A Borrower may not use 7(a) loan proceeds to purchase a portion of a business or a portion of another owner's interest. One or more current owners may use loan proceeds to purchase the entire interest of another current owner, or a Borrower can purchase ownership of an entire business.

MATURITIES; INTEREST RATES; LOAN AND GUARANTEE AMOUNTS

§ 120.210 What percentage of a loan may SBA guarantee?

SBA's guarantee percentage must not exceed the applicable percentage established in section 7(a) of the Act. The maximum allowable guarantee percentage on a loan will be determined by the loan amount. Effective December 21, 2000, loans of \$150,000 or less may receive a maximum guaranty of 85 percent. Loans more than \$150,000 may receive a maximum guaranty of 75 percent, except as otherwise authorized by law.

[61 FR 3235, Jan. 31, 1996, as amended at 68 FR 51680, Aug. 28, 2003]

§ 120.211 What limits are there on the amounts of direct loans?

(a) The statutory limit for direct loans made under the authority of section 7(a)(1)-(19) of the Small Business Act is \$350,000. SBA has established an administrative limit of \$150,000 for direct loans. The AA/FA may authorize acceptance of an application up to the statutory limit.

(b) The statutory limit for direct loans made under the authority of section 7(a)(20) is \$750,000. SBA has established an administrative limit of \$150,000. The Associate Administrator for Minority Enterprise Development may authorize the acceptance of an ap-

plication that exceeds the administrative limit.

(c) The statutory limit on SBA's portion of an immediate participation loan is \$350,000. The administrative limit is the lesser of 75 percent of the loan or \$150,000. The AA/FA may authorize exceptions to the administrative limit up to \$350,000.

§ 120.212 What limits are there on loan maturities?

The term of a loan shall be:

(a) The shortest appropriate term, depending upon the Borrower's ability to repay;

(b) Ten years or less, unless it finances or refinances real estate or equipment with a useful life exceeding ten years; and

(c) A maximum of 25 years, including extensions. (A portion of a loan used to acquire or improve real property may have a term of 25 years plus an additional period needed to complete the construction or improvements.)

§ 120.213 What fixed interest rates may a Lender charge?

(a) *Fixed Rates for Guaranteed Loans.* A loan may have a reasonable fixed interest rate. SBA periodically publishes the maximum allowable rate in the FEDERAL REGISTER.

(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.