



# SBA Information Notice

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| <b>TO:</b> All SBA Employees                                    | <b>CONTROL NO.:</b> | 5000-1120 |
| <b>SUBJECT:</b> Updated SBA's ARC Loan Program Procedural Guide | <b>EFFECTIVE:</b>   | 8-31-2009 |

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SBA's America's Recovery Capital (ARC) Loan Program was introduced in June 2009. SBA's ARC Loan Program Procedural Guide was issued June 8, 2009, as well as a new set of loan application forms and an authorization specific to SBA's ARC loans. Once the Guide and forms were published, SBA launched extensive training sessions with over 3,000 participants representing over 1,300 lending institutions across the country and has actively sought questions, clarifications and feedback on this program. SBA also published a detailed set of frequently asked questions (FAQs) to address many of the common questions that were raised after the initial roll-out.

In this continued commitment to being responsive to our lending partners, the SBA has now updated SBA's ARC Loan Program Procedural Guide to reflect some of these clarifications and provide even more specific guidance to help our lending partners in making this product accessible to small businesses.

On our website, we have published both a tracked-changes version and "clean" version (with all changes accepted) of this revised program guide to assist lenders in quickly identifying the areas that have been modified. The updated guide is located on SBA's website at [www.sba.gov/aboutsba/sbaprograms/elending/RECOVERY\\_INFO\\_LENDERS.html](http://www.sba.gov/aboutsba/sbaprograms/elending/RECOVERY_INFO_LENDERS.html).

The more important changes included in the procedural guide are summarized below:

Qualifying Small Business Loans (QSBLs). Provides additional guidance and information on what loans are QSBLs including notes payable to pay accounts payable and other business obligations that are more than 30 days delinquent; what constitutes a loan; what constitutes an "existing" loan; how to treat SBA loans pre and post February 17, 2009; and how to treat new non-SBA loans.

Credit Cards. For credit cards issued in the name of the business, the Guide replaces the requirement that the borrower submit to the lender supporting documentation for each credit card charge, with a borrower certification that all charges on the business credit card to be paid with the proceeds from an SBA ARC Loan were exclusively for business purposes. For credit cards issued in the name of an individual, the Guide maintains the documentation requirements except that for credit card purchases of \$100.00 or less, the documentation requirement is eliminated. The Guide also specifically allows for monthly payments on credit cards in amounts in excess of the minimum monthly payment.

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**EXPIRES: 8-1-2010**

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SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete  
Must be accompanied by SBA Form 58

Eligible Passive Companies (EPC)/Operating Companies(OC). Many real estate transactions are structured with an EPC that owns the real estate and is obligated on the associated mortgage. The OC is the operating small business that is located in the real estate and provides the income necessary to amortize the mortgage by paying rent to the EPC. Generally, the two entities are affiliated. Normally, the EPC is the borrower and the OC is the guarantor of the mortgage loan. Under SBA's ARC Loan Program, the proceeds from an SBA ARC loan are not eligible for paying rent or other operational expenses. And, the EPC, by itself, is an ineligible passive business restricted by the regulations governing the program from receiving an SBA ARC Loan for the purpose of paying the mortgage on the property. The guide provides guidance on how to treat the EPC/OC structure for 504 Third Party Loans, 504 loans and 7(a) loans that permits the use of SBA ARC Loan proceeds to make the mortgage payments on those types of SBA loans. EPCs that have a non-SBA loan are still not able to obtain an SBA ARC Loan to make payments on the non-SBA mortgage held by the EPC unless the EPC and OC are co-borrowers on the non-SBA mortgage note (the OC may obtain an SBA ARC Loan to pay other business loan obligations it may have).

Collateral. The Guide is amended to clarify SBA's policy with regard to collateral requirements for SBA's ARC Loans. The Guide originally required lenders to follow the collateral policies they apply to their conventional commercial loans of a similar size. Many lenders require a first lien position for their conventional loans which typically cannot be obtained for an SBA ARC Loan. The Guide is amended to retain the requirement for a lender to follow its existing collateral policies as to whether the loan is secured or not but allows the lender to obtain the best available lien position.

Credit Criteria. The Guide corrects the financial statement requirement to allow for either financial statements or tax returns and reduces the requirement from 3 years of historical financial information to 2 years. The requirement for historical cash flow statements is eliminated. Also guidance on how to prepare the 2-year cash flow projection has been added.

Environmental Reviews. Eliminates any requirement for environmental reviews on collateral taken for SBA's ARC Loans.

Life Insurance. Eliminates any requirement for life insurance related to SBA's ARC Loans.

Interest Payable and 1502 Reporting. Incorporates additional information on the administration of interest payable by SBA to the lender and 1502 Reporting on SBA's ARC Loans that was not available at the time the Guide was initially issued.

Questions on SBA's ARC Loan Program may be directed to your local district office or e-mail SBA at [ARCLoanEQ@SBA.gov](mailto:ARCLoanEQ@SBA.gov).

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