



Cleveland District Office  
Newsletter Bulletin #012-3/09

***SBA Pleased To Announce Details of Two New Recovery Act Tools: Up to a 90 Percent Guaranty on 7(a) Loans, Fee Elimination on 7(a) and 504***

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (the “Recovery Act”) (P.L. 111-5). Section 502 of the Recovery Act authorizes SBA to guarantee up to 90 percent of a 7(a) loan except for SBA Express, and Section 501 of the Act authorizes SBA to reduce or eliminate certain fees on 7(a) and 504 loans. The purpose of this Notice is to announce the details behind these program changes.

***Up to a 90 Percent Guaranty on 7(a) Loans***

As of the date of this Notice, a Lender may request up to a 90 percent guaranty for a 7(a) loan submitted under the following programs:

<u>Loan Program amount</u>	<u>Maximum loan amount</u>	<u>Maximum guaranty</u>
Standard 7(a)	\$ 2,000,000	\$ 1,500,000
CLP	\$ 2,000,000	\$ 1,500,000
PLP	\$ 2,000,000	\$ 1,500,000
Small/Rural Lender Advantage	\$ 350,000	\$ 315,000
Community Express	\$ 250,000	\$ 225,000
Patriot Express	\$ 500,000	\$ 450,000
Export Express	\$ 250,000	\$ 225,000
Gulf Opportunity	\$ 150,000	\$ 135,000

The Recovery Act did not change the maximum SBA guaranteed amount which remains at \$1,500,000. Therefore, for those loan programs that have a maximum loan amount greater than \$500,000 (Standard 7(a), CLP, and PLP), in order for the loan to receive a 90 percent guaranty, the loan amount cannot exceed \$1,666,666 (\$1,500,000 divided by 90 percent).

For loans greater than \$1,666,666, the maximum guaranty will be calculated as follows: \$1,500,000 (SBA guaranteed amount) divided by the loan amount rounded down to the second decimal. For example, if the loan amount is \$1,680,000, then the guaranty percentage would be \$1,500,000 divided by \$1,680,000, which equals 89.2857 percent, rounded down to 89.28 percent.

For loans to borrowers with existing SBA-guaranteed loans, the new loan will also have a guaranty percentage less than 90 percent when necessary to comply with the Small Business Act's limitation of no more than \$1,500,000 in guaranteed amount to one borrower (including affiliates).

The Recovery Act requires that the Borrower meet an additional requirement for the increased guaranty:

No loan guarantee under this initiative may be made to any entity found, based on a determination by the Secretary of Homeland Security or the Attorney General, to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

Therefore, prior to first disbursement, the Lender must require the Borrower and any Operating Company to certify as follows:

**Immigration Laws** — Neither the Borrower nor Operating Company has been determined by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring an alien, recruiting an alien or referring an alien for a fee for employment in the United States, knowing that the person is an unauthorized alien.

Version 2009.2 of the 7(a) Loan Authorization, which will be available shortly, will incorporate this certification for standard 7(a), CLP, PLP and Small/Rural Lender Advantage loans. For any Pilot Loan Program loans, the lender will be responsible for adding this requirement to the lender's authorization.

This certification is in addition to the existing disclosure requirement on SBA Form 912, Statement of Personal History.

Lenders and/or borrowers may be subject to additional reporting or recordkeeping requirements in connection with loans under the Recovery Act.

### **Fee Eliminations**

**7(a) Loan Guarantee Fee Eliminations:** For 7(a) loans approved by SBA on or after February 17, 2009, SBA will temporarily eliminate the Small Business Act section 7(a)(18)(A) fees (upfront guaranty fees) for all eligible loans, including those made with higher SBA guarantees (up to 90%) as provided in section 502 of the Recovery Act. For eligible loans approved between February 17, 2009 and the date of this notice, the Agency will make funds available to refund payments for these fees. The Agency is developing a refund mechanism. SBA expects to be able to begin issuing refunds by

approximately May 1, 2009. If borrowers have already paid lenders for the fee on eligible loans, lenders must reimburse the borrowers from the SBA refund.

Consistent with the prioritization for fee eliminations or reductions in the Recovery Act, the on-going guaranty fee set forth in section 7(a)(23) of the Small Business Act will continue to apply. In addition, SBA's ¼ point guaranty fee set forth in 13 CFR 120.220(a) for loans with maturities of 12 months or less will continue to apply.

**504 Development Company Program Fee Eliminations:** For eligible loans approved through the Agency's section 504 Development Company Program on or after February 17, 2009, SBA will temporarily eliminate two program fees: 1) Third-Party Participation Fees (Small Business Investment Act Section 503(d)(2) fees codified at 13 CFR 120.972); and 2) CDC Processing Fees (13 CFR Section 120.971(a)(1) fees).

### **Expiration Date of Both**

The increased guaranty percentage of up to 90 percent is offered in conjunction with the fee eliminations announced today. These terms will be available until the aggregate dollar amount of 7(a) loans made under this authority exhausts the funds dedicated to that purpose. We currently estimate that program level will be approximately \$8.7 billion. Depending on loan volume in the 7(a) program, ***SBA estimates that the increased guaranty percentage will be available through approximately December 31, 2009.***

Please contact our Lender Relations Division at (216) 522-4180 if you have any questions on this change.