SBA Information Notice

TO: All SBA Employees **CONTROL NO.:** 5000-1175

SUBJECT: Small Business Jobs Act: New Alternative Size Standard for 7(a) and 504 Loans **EFFECTIVE:** 9/29/2010

On September 27, 2010, President Obama signed the Small Business Jobs Act of 2010 ("Small Business Jobs Act"). The purpose of this Notice is to advise SBA personnel, 7(a) lenders and Certified Development Companies (CDCs) that the Small Business Jobs Act establishes a new temporary alternative size standard for business loans made under SBA's 7(a) and 504 loan programs.

SBA sets size standards that establish which businesses are considered small for certain government programs. The Small Business Jobs Act directs SBA to establish a new alternative size standard based on tangible net worth and net income for determining size eligibility for its 7(a) and 504 loan programs. The law also establishes a temporary alternative standard that is in effect until SBA issues the new size rule.

This new, temporary alternative size standard is established by Section 1116 of the Small Business Jobs Act, which states, in part:

> [A]n applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—
>
> (i) the maximum tangible net worth of the applicant is not more than $15,000,000; <u>and</u>
>
> (ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than $5,000,000.

This Notice announces that, effective September 27, 2010, the new statutory alternative size standard replaces and supersedes the existing alternative size standard, based on tangible net worth and net income, for SBA's 7(a) and 504 loan programs set forth in 13 CFR 121.301(b)(2). The method for calculating net worth and net income outlined in 13 CFR 121.301 will continue to apply to the calculation of net worth and net income under this temporary alternative size standard. The new statutory alternative size standard will remain in effect until such time as SBA establishes a permanent alternative size standard for the 7(a) and 504 loan programs through rulemaking.

Thus, beginning September 27, 2010, applicants can utilize the new statutory alternative size standard (or the industry-based size standard set forth in 13 CFR 121.201) in order to qualify for a 7(a) or 504 loan. SBA's disaster loan program, surety bond guarantee program, small business investment company program, and small business development and contracting programs, as well as other federal programs utilizing SBA's industry-based size standards, are not affected by this temporary alternative size standard. Current standards for these programs in 13 CFR Part 121 remain in effect.

For businesses applying for SBA 7(a) and 504 loans before September 27, 2010, the new statutory alternative size standard will <u>not</u> be available. Instead, these applicants must qualify under the previously adopted alternative size standard set forth in 13 CFR 121.301 or the industry-based size standard. For the Preferred Lenders Program (PLP), SBA Express and the Pilot Loan Programs (Community Express, Export Express, Patriot Express, and the Gulf Opportunity Pilot Loan Program), size is determined as of the date of approval of the loan by the lender. (SOP 50 10 5(B), Subpart B, Chapter 2.)

SBA field offices are responsible for notifying lenders and Certified Development Companies that this new statutory alternative size standard is in effect.

Questions concerning this Notice should be directed to the lender relations specialist in the local SBA field office. The local SBA field office may be found at www.sba.gov/localresources.

____

Karen Hontz
Director, Office of Government Contracting

____

Grady B. Hedgespeth
Director, Office of Financial Assistance