INTRODUCTION

1. Purpose: To establish policy for the Disaster Assistance Program.

2. Personnel Concerned: All SBA personnel involved in administering the SBA Disaster Assistance Program.

3. Directives Cancelled: SOP 50 30 7.

4. Originator: Office of Disaster Assistance.

Contents

CHAPTER 1 1
PROGRAM INTRODUCTION 1
1.1. OVERVIEW 1
1.2. AUTHORITY 1
1.3. CHANGES AND EXCEPTIONS TO POLICY AND SOP REQUIREMENTS 1
1.4. TYPES OF DISASTER DECLARATIONS AND OTHER ASSISTANCE 2
1.5. GENERAL RULES OF APPLICATION AND MEANING 3
1.6. ORGANIZATION 3
1.7. ATTITUDE OF SBA DISASTER PERSONNEL 4
1.8. IMPROPER PAYMENTS 4
1.9. REFERRAL TO THE OFFICE OF INSPECTOR GENERAL (OIG) 5
1.10. SAFEGUARDING INFORMATION 5
1.11. GENERAL GUIDANCE REGARDING AUTHORIZED REPRESENTATIVES 5
1.12. DOCUMENTING ALL CONTACTS 7
1.13. CASE FILE DOCUMENTATION 7
1.14. CONGRESSIONAL INQUIRIES 8
CHAPTER 2 9
ORIGINATING THE LOAN APPLICATION 9
2.1. FEMA REGISTRATION 9
2.2. AUTO-DIALER CAMPAIGN 9
2.3. INITIAL DISASTER SURVIVOR CONTACT 9
2.4. INTERVIEW TOPICS 11
2.5. DISASTER LOAN APPLICATION PACKAGES 14
2.6. PRE-APPLICATION ENTRY 14
2.7. FILING AN APPLICATION 15
2.8. FILING PERIOD 15
2.9. THE GRACE PERIOD 16
2.10. ISSUING APPLICATIONS AFTER THE GRACE PERIOD 16
2.11. ACCEPTING APPLICATIONS AFTER THE GRACE PERIOD 16
2.12. FIELD SCREENING 16
2.13. APPLICATION ENTRY 18

CHAPTER 3 19
LOAN ELIGIBILITY 19
APPLICANT ELIGIBILITY FOR HOME & BUSINESS DISASTER LOANS 19
3.1. APPLICANTS GENERALLY ELIGIBLE 19
3.2. PRIVATE NON-PROFIT ORGANIZATIONS 28
3.3. RESTRICTIONS ON APPLICANT ELIGIBILITY 29
3.4. APPLICANTS GENERALLY INELIGIBLE 31
3.5. EQUAL CREDIT OPPORTUNITY ACT (ECOA) 35
3.6. CHARACTER DETERMINATION 36
ELIGIBILITY OF PROPERTY FOR PHYSICAL DISASTER LOANS 37
3.7. GENERAL ELIGIBILITY RULE 37
3.8. LOCATION OF PROPERTY 37
3.9. ESTABLISHING OWNERSHIP 38
3.10. PRIMARY RESIDENCE ELIGIBILITY 38
3.11. AGRICULTURAL PROPERTY 40
3.12. REPAIR OR REPLACEMENT COST ELIGIBILITY FOR STRUCTURES 40
3.13. MANUFACTURED HOUSING ELIGIBILITY 41
3.14. LAND ELIGIBILITY 42
3.15. LANDSCAPING AND RECREATIONAL IMPROVEMENTS/FACILITIES 44
3.16. HOME LOAN PERSONAL PROPERTY ELIGIBILITY 44
3.17. BUSINESS CONTENTS ELIGIBILITY 46
3.18. VEHICLE, PERSONAL VESSEL, AND PERSONAL AIRCRAFT ELIGIBILITY 47
3.19. COMMERCIAL VESSEL AND AIRCRAFT ELIGIBILITY 47
3.20. ALTERNATE USE OF LOAN ELIGIBILITY 48
3.21. UPGRADING 49
3.22. INELIGIBLE PROPERTY 50
3.23. CONDOMINIUM ELIGIBILITY (INDIVIDUAL UNITS AND CONDOMINIUM ASSOCIATIONS) 52
3.24. CONDOMINIUM UNIT OWNERS 53
3.25. ASSOCIATION APPLICATIONS 55
3.26. OTHER ASSOCIATION ELIGIBILITY 56
3.27. REFINANCING 57
3.28. RELOCATION 63
3.29. PROTECTIVE DEVICES AND MITIGATION MEASURES 69

ECONOMIC INJURY DISASTER LOANS 72
3.30. ECONOMIC INJURY DISASTER LOAN (EIDL) ELIGIBILITY 72
3.31. ELIGIBLE EIDL LOAN AMOUNT 81
3.32. SIZE DETERMINATION 85
CHAPTER 4 88
ELIGIBLE LOAN AMOUNT 88
4.1. VERIFICATION OF DAMAGE 88
4.2. REQUESTING REVERIFICATION 89
4.3. DETERMINATION OF AMOUNT OF PHYSICAL LOAN ELIGIBILITY 89
CHAPTER 5 97
CREDIT 97
5.1. CREDIT INFORMATION 97
5.2. CREDIT BUREAU REPORTS (CBR) 97
5.3. BUSINESS CREDIT REPORTS 97
5.4. DISCUSSION OF CREDIT CONTENT WITH APPLICANTS 97
5.5. ADVERSE CREDIT HISTORY 98
5.6. LACK OF CREDIT HISTORY AND DIRECT CHECKS 98
5.7. PRIOR OR EXISTING SBA LOAN HISTORY 98
5.8. BANKRUPTCY OR REORGANIZATION 99
5.9. DELINQUECY ON FEDERAL OBLIGATIONS 100
5.10. DELINQUENCY ON FEDERAL OBLIGATIONS WITH NO JUDGMENT LIEN 101
5.11. CREDIT COUNSELLING SERVICES 101
5.12. MORTGAGE MODIFICATIONS 101
5.13. LAWSUITS AGAINST THE APPLICANT 101
5.14. CHILD SUPPORT 102
CHAPTER 6 103
REPAYMENT ABILITY 103
6.1. DOCUMENTING INCOME AND REPAYMENT ABILITY 103
6.2. RAPID PROCESSING 105
6.3. OBTAINING IRS TRANSCRIPTS 106
6.4. CONFLICTING FTR INFORMATION 106
6.5. THE HOME FIXED DEBT METHOD (FDM) 106
6.6 DOCUMENTING REPAYMENT ABILITY ON A BUSINESS/EI LOAN 112
LOAN DECISION 114

7.1. AUTHORITY TO APPROVE, DECLINE, WITHDRAW, OR MODIFY LOAN APPLICATIONS....114
7.2. LOAN PROCESSING ROLES AND RESPONSIBILITIES....116
7.3. COMPANION AND ASSOCIATED FILES....116
7.4. TELEPHONE CONTACT UPON COMPLETION OF PROCESSING....117
LOAN APPROVAL....118
7.5. LOAN AMOUNTS....118
7.6. MAJOR SOURCE OF EMPLOYMENT WAIVER OF LENDING LIMIT....119
7.7. ROUNDING OF DOLLAR AMOUNTS....121
7.8. LIMITED LOAN AMOUNTS/LOSS IN EXCESS OF LENDING LIMITS....121
7.9. INTEREST RATES....122
7.10. LOAN TERMS, INSTALLMENT PAYMENT AMOUNTS....123
7.11. COLLATERAL REQUIREMENTS....127
7.12. GUARANTEE REQUIREMENTS....131
7.13. HAZARD/OTHER INSURANCE REQUIREMENTS....132
7.14. FLOOD INSURANCE REQUIREMENTS....134
7.15 EFFECT OF FLOODPLAIN MANAGEMENT (EXECUTIVE ORDER 11988) AND WETLANDS PROTECTION (EXECUTIVE ORDER 11990) REQUIREMENTS (SEE 13 CFR §120.172)....140
7.16. WAIVER OF ELIGIBILITY REQUIREMENT....141
7.17. ANTI-DISCRIMINATION COMPLIANCE REQUIREMENTS....141
7.18. REQUIREMENTS FOR REAL ESTATE REPAIR....141
7.19. GENERAL LOAN REQUIREMENTS FOR LARGE LOANS (GREATER THAN $1 MILLION)....142
7.20. LOAN AUTHORIZATION AND AGREEMENT (LAA)....143
7.21. CONDITIONAL COMMITMENT LETTER....144
7.22. OBLIGATING LOAN FUNDS....144
7.23. NOTIFICATION TO BORROWER OF LOAN APPROVAL....145
WITHDRAWAL AND DECLINE....146
7.24. WITHDRAWAL OF APPLICATIONS....146
7.25. REACCEPTANCE OF WITHDRAWN APPLICATIONS....146
7.26. DECLINE OF APPLICATIONS....147
7.27. FAIR CREDIT REPORTING ACT....147
7.28. DECLINE OF BUSINESS/EIDL (B/E) LOANS....148
7.29. RECONSIDERATION OF DECLINED LOAN APPLICATIONS....148

7.30. RECONSIDERATION WHEN MAJOR SOURCE OF EMPLOYMENT (MSE) DETERMINATION WAS DENIED 149
7.31. RECONSIDERATION OF DECLINE FOR EXCEEDING APPLICABLE SIZE STANDARDS 150
7.32. APPEAL OF RECONSIDERATION 151
CHAPTER 8 152
LOAN MODIFICATIONS 152
8.1. LOAN MODIFICATION 152
8.2. DEADLINE EXTENSIONS 155
8.3 LOAN DECREASE AND CANCELLATION 156
8.4. REINSTATEMENT OF CANCELLED LOANS 157
8.5. INCREASES IN PHYSICAL AND ECONOMIC INJURY LOANS 159
8.6. DISASTER LOAN SERVICING RESPONSIBILITY 160
CHAPTER 9 161
LOAN CLOSING AND DISBURSEMENT 161
9.1. ROLES AND RESPONSIBILITIES 161
9.2. CLOSING 161
9.3 LOAN CLOSING DOCUMENTS (LCD) 161
9.4. LOAN DISBURSEMENT PROCESS 162
9.5. CLOSING DEADLINES & EXTENSIONS 162
9.6. GENERAL GUIDELINES 163
9.7. LOAN CONDITIONS 165
9.8. WAIVER OF ELIGIBILITY 165
9.9. AGREEMENT OF COMPLIANCE 166
9.10. REQUIREMENTS FOR REAL ESTATE REPAIR 166
9.11. INSURANCE REQUIREMENTS 167
9.12. COLLATERAL REQUIREMENTS 169
9.13. TITLE SEARCH AND TITLE POLICY 171
9.14. EVIDENCE REQUIRED FOR PREVIOUSLY DISBURSED LOAN FUNDS 172
9.15. REFINANCING 172
9.16. EIDL/MREIDL DISBURSEMENTS 173
9.17. ESCROW ACCOUNTS AND/OR CONTROLLED ACCOUNTS 173
LOAN MODIFICATIONS 174
9.18. LOAN MODIFICATION 174
APPENDIX 1 176

INDEX TO FORMS AND REPORTS 176
APPENDIX 2 178
ACRONYMS AND DEFINITIONS 178
APPENDIX 3 182
TYPES OF FIELD ASSISTANCE CENTERS 182
APPENDIX 4 183
SBA MINIMUM INCOME LEVELS 183
APPENDIX 5 184
APPLICATION FORMS 184
APPENDIX 6 186
Home LOAN SUMMARY DECLINE ANALYSIS 186
APPENDIX 7 188
FILING REQUIREMENTS 188
APPENDIX 8 190
CITIZENS, NONCITIZEN NATIONALS, AND QUALIFIED ALIENS 190
APPENDIX 9 194
MILITARY RESERVE ECONOMIC INJURY (MREIDL) 194
APPENDIX 10 197
RAPID HOME AND BUSINESS LOAN PROCESSING GUIDELINES 197
APPENDIX 11 201
HOW TO MAKE A SIZE DETERMINATION 201
APPENDIX 12 203
INSTRUCTIONS FOR COMPLETING THE ECONOMIC INJURY DISASTER LOAN (EIDL) WORKSHEET 203
APPENDIX 13 215
RIGHT TO FINANCIAL PRIVACY 215
APPENDIX 14 217
IRS FORM 8821/4506-T TRANSCRIPTS VERIFICATION PROCESS 217
APPENDIX 15 222
AUTO DECLINE AND PRE-LV REVIEW PROCESS 222
APPENDIX 16 224
CREDIT ELSEWHERE GUIDELINES FOR DISASTER HOMES AND BUSINESS LOANS 224
APPENDIX 17 227
REASONS FOR WITHDRAWAL OF APPLICATION 227

APPENDIX 18 233
REASONS FOR DECLINE OF APPLICATION 233
APPENDIX 19 243
USE OF LOAN PROCEEDS 243
APPENDIX 20 244
CATALOG OF OPTIONAL LOAN AUTHORIZATION TEXT 244
APPENDIX 21 245
CANCELLATION CODES 245
INDEX 246

CHAPTER 1

PROGRAM INTRODUCTION

1.1. OVERVIEW

In the wake of hurricanes, floods, earthquakes, wildfires, tornadoes and other physical disasters, the U.S. Small Business Administration (SBA) plays a major role. Through its Office of Disaster Assistance (ODA), SBA provides financial assistance to businesses of all sizes, most private non-profit organizations, homeowners, and renters following a declared disaster. In addition SBA provides eligible small businesses necessary working capital to help overcome the economic injury of a declared disaster. SBA's disaster loan program is the only form of assistance not limited to small businesses. Financial assistance is in the form of low-interest, long-term loans.

1.2. AUTHORITY

A. Section 7(b) (1) of the Small Business Act, as amended, authorizes the Agency's Physical Disaster Loan Program. SBA can make loans to repair, rehabilitate or replace property, real or personal, damaged or destroyed by or as a result of natural or other disasters as defined by the Small Business Act.

B. Section 7(b) (2) of the Small Business Act, as amended, authorizes the Agency's Economic Injury Disaster Loan (EIDL) Program. SBA can make loans to eligible small businesses, eligible non-profit organizations, and eligible small agricultural cooperatives located in a disaster area that suffered substantial economic injury as a result of the disaster.

C. Section 7(b) (3) of the Small Business Act, as amended, authorizes the Agency's Military Reserve Economic Injury Disaster Loan (MREIDL) Program. SBA can make loans to eligible small businesses that suffered or are likely to suffer substantial economic injury as a result of an essential employee being ordered to active military duty during a period of military conflict.

D. Section 7(b)(2)(B) of the Small Business Act, as amended, authorizes the Agency to make loans to eligible small businesses small agricultural cooperative, and most private non-profits that suffered substantial economic injury as a result of a natural disaster as determined by the Secretary of Agriculture.

NOTE: You can find additional program guidance in Title 13 of the Code of Federal Regulations (13 CFR), Part 123.

1.3. CHANGES AND EXCEPTIONS TO POLICY AND SOP REQUIREMENTS

Disaster loan policies and guidelines cannot anticipate all of the circumstances, questions or needs that may arise in any given disaster. Therefore, these policies and guidelines may change without advance notice. ODA notifies the Disaster Assistance Centers (generally, through a numbered memo) of all changes.

A policy exception is any recommended action not in full compliance with this SOP. Only the Associate Administrator for Disaster Assistance (AA/DA) can approve exceptions.

1.4. TYPES OF DISASTER DECLARATIONS AND OTHER ASSISTANCE

There are six types of disaster declarations.

A. Presidential. This activates SBA's physical and EIDL programs. Some other forms of Federal, State, or other assistance that may be available in addition to SBA loans are:

1. Under a Declaration for Individual Assistance (IA):

a. The Rental Assistance and Home Repair Program (HA) – administered by Federal Emergency Management Agency (FEMA), the coordinating agency for all disaster assistance.

b. The Individuals and Households Program (IHP) FEMA and the states have flexibility on the delivery of this type of grant assistance. There is an overall cap on grant assistance for any one disaster (adjusted annually in October), excluding grant monies for permanent housing construction.

c. Grant and/or loan programs administered by state or regional entities, as available.

d. Services provided by volunteer agencies, as available.

2. Under a Declaration of Public Assistance (PA): FEMA Public Assistance (PA) grant program for private non-profits (PNPs) that provide essential services of a governmental nature.

B. Administrative (Agency). This activates SBA's physical and EIDL programs. Generally, the only other assistance in addition to SBA is from volunteer agencies.

C. Secretary of Agriculture (SecAg). This activates SBA's EIDL program.

D. Governor's Certification (7(b) (2) (D)). This activates SBA's EIDL program.

E. Secretary of Commerce. Under Section 308(b) of the Interjurisdictional Fisheries Act of 1986, the Secretary of Commerce may make a determination that eligible small businesses have suffered substantial economic injury as a result of commercial fishery failures or fishery resource disasters. In the event of such determination, SBA's EIDL program can only be activated under a Governor's Certification.

F. Military Reserve Economic Injury Disaster Loan (MREIDL) Program. This activates SBA's MREIDL program.

1.5. GENERAL RULES OF APPLICATION AND MEANING

A. Guidance regarding processing of loan applications, actions, or requirements on loan terms and conditions shall, unless specifically excluded, be equally applicable to original processing actions (to include all forms of reconsideration) and to post-approval actions as loan modifications. Guidance of a general nature, including file documentation, staff conduct, and matters regarding dealings with external entities, shall be applicable to all ODA staff and official matters.

B. The following should be applied in any reading of this SOP:

1. The terms “applicant” and “borrower,” whether singular or plural, shall be deemed interchangeable terms as applicable under the facts;

2. All references to official titles or positions shall be deemed to include any person “acting” in the capacity under a properly authorized line of succession document;

3. All references to official titles, position, or signatory authority shall include formally named designees under an authorized delegation of authority, an authorized DCMS responsibility access, or other written designation approved by competent authority.

4. All references to the declared area or the declared disaster area shall be deemed the same as disaster event or disaster footprint.

1.6. ORGANIZATION

A. Associate Administrator for Disaster Assistance (AA/DA)

The AA/DA plans, directs, and administers the Agency's disaster lending programs. The AA/DA's office and staff, located in Washington, DC, comprise the Office of Disaster Assistance (ODA). ODA serves all U.S. states, territories, possessions, commonwealths, and the District of Columbia.

B. The Disaster Assistance Centers

There are nine offices located nationwide. Each office is supervised by a Director and operates the disaster program under the direction of ODA.

1. The Disaster Assistance Customer Service Center (CSC) located in Buffalo, NY is a national contact center providing services in support of ODA program delivery, which includes responding to customer inquiries on the toll-free customer service line (1-800-659-2955) and e-mails to the customer service mailbox (disastercustomerservice@SBA.gov).

2. The Disaster Assistance Processing and Disbursement Center (PDC) is located in Fort Worth, TX and is responsible for application processing functions, loan closing, and disbursement of loan proceeds.

3. The Disaster Assistance Field Operations Center East (FOC-E) is located in Atlanta, GA and the Disaster Assistance Field Operations Center West (FOC-W) is located in Sacramento, CA. Each is responsible for SBA's response and recovery operations, including establishing field presence, staffing Disaster Recovery Centers and Disaster Loan Outreach Centers.

4. Office of Disaster Personnel (ODP) located in Herndon, VA, oversees the full-service personnel and resource management program including recruitment, staffing, benefits, pay and leave, performance, classification, etc.

5. The Administrative Services Center (ASC) located in Herndon, VA is responsible for the full service administrative resource management program including support services, supply control activities, budget, procurement, travel, payroll, facilities management, and warehouse and storage facilities.

6. The Disaster Credit Management System (DCMS) Operations Center, located in Herndon, VA, is responsible for maintaining and updating the DCMS software, interfacing with other computer systems, and the computer hardware necessary to operate the system

7. The Damage Verification Center (DVC) located in Herndon VA is responsible for performing surveys/Preliminary Damage Assessments (PDAs) and conducting all original verifications of disaster losses.

8. The Office of Disaster Strategic Engagement and Effectiveness (ODSEE), located in Herndon, VA and Washington, DC, supports accomplishments of SBA and ODA's strategic mission and goals through effective and efficient human capital programs

1.7. ATTITUDE OF SBA DISASTER PERSONNEL

The disaster assistance program is customer driven. The people coming to you for assistance have been through a traumatic experience from which they may not have recovered. You are there to help, not to further discourage them. It is absolutely essential that you exercise tact, compassion, and professionalism at all times.

1.8. IMPROPER PAYMENTS

An improper payment is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients. An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law). In addition, when an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an improper payment.

Failure to follow the policies and guidance set forth in this SOP may result in an improper payment.

1.9. REFERRAL TO THE OFFICE OF INSPECTOR GENERAL (OIG)

In the course of your duties, you must immediately report any known or suspected improper activity directly to the Office of Inspector General (OIG) which may constitute waste, fraud, or abuse in the administration of, or participation in, disaster assistance programs. This includes program irregularities, misrepresentations, and bribery overtures (attempts or solicitations included). You must also refer cases to OIG when you have questions about the truthfulness or accuracy of any application or supporting data and information (including tax information), or any other false information provided by applicants, borrowers, or paid representatives, in the course of participation in any of the disaster assistance programs.

After a case is referred to OIG, SBA employees shall not make any statement about actions taken by the OIG (except as permitted by law), without the express consent of the Office of Inspector General.

To make a referral, contact the OIG Hotline at ((800) 767-0385) or complete the on-line OIG Complaint Submission Form at https://www.sba.gov/office-of-inspector-general . You have the option to request confidentiality from OIG.

1.10. SAFEGUARDING INFORMATION

To ensure compliance with the Privacy Act and to safeguard the personal information of the disaster survivor, you should take appropriate precautions to ensure that personally identifiable information (PII) are handled in the appropriate manner. In addition you should verify that you are communicating with the applicant/borrower or their authorized representative prior to disclosing any information considered private or sensitive.

1.11. GENERAL GUIDANCE REGARDING AUTHORIZED REPRESENTATIVES

A. All Representatives:

1. Authorized Representatives. SBA applications require a listing of anyone retained by an applicant as his/her representative, and the compensation to be paid. Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), you may only discuss the specifics of an applicant's loan with an applicant or authorized representative as named in the application, or as authorized in writing by the applicant.

B. Paid Representatives

SBA loan applications require a listing of paid representatives (attorneys, accountants, etc.) an applicant retains, and any present or future compensation for their services.

1. Reasonableness of Fees

The policy of SBA is to try to ensure that those who participate in its programs are not subject to fraud, dishonesty, or unnecessary or inappropriate representation that creates excessive fees or costs. We do not require applicants to engage the services of any professional to file an application. When an applicant engages a representative, the fees must be disclosed and SBA will

review the fees charged in connection with preparing the application and assisting the applicant to obtain a loan to assess whether the fees are reasonable in relation to the services performed.

Reasonable fees are those which are for necessary and appropriate services actually performed, or for expenses actually incurred, and are comparable to those charged by other agents in that geographical area. Fees paid for services not directly related to the application process, such as preparation of tax returns and regular accounting fees should not be included in the reasonability assessment.

a. For a routine application, fees generally should not be more than $500 for disaster home loans and $2,500 for disaster business loans.

b. If the representative's fees exceed this amount you should:

(1) Advise the applicant that the representative must provide SBA and the applicant with a signed Compensation Agreement (SBA Form 159), and explain to the applicant that ODA needs to ensure that the applicant is not being charged excessive fees for the services provided;

(2) Forward the fee information to the ACDAP (Assistant Center Director Application Processing) for review.

c. If the representative's fees have not been disclosed you must ask the applicant the amount of fees they have agreed to pay and document the file accordingly.

NOTE: You should continue to process the case file, even in situations where fees exceed the limits identified above. Issues pertaining to compensation of the applicant/borrower's representative should not preclude continued processing or disbursing the loan.

d. The ACDAP in consultation as needed with the Assistant Center Director Accounts (ACDA) should review the fee information to determine whether the fees charged are reasonable in relationship to services actually performed (13 CFR Part103). The ACDAP may request that the representative provide an itemization or justification of services provided or expenses incurred. If fees are determined to be unreasonable, and cannot or will not be justified by the representative, the ACDAP or ACDA should advise the Center Director for the Processing and Disbursement Center (CD/PDC) who will make the final determination. Any further action should be coordinated with ODA.

C. Representative Index.

The PDC will enter the appropriate information for all representatives listed on the application in the "Representative Index" section on the Interview Data tab within DCMS.

1.12. DOCUMENTING ALL CONTACTS

The efficient and timely processing, closing, and disbursement of files require you to have contact with applicants and other parties, whether in person, or by phone, e-mail or fax. Other parties may include applicant/borrower representatives, bankers, insurance agents/companies, contractors, attorneys, or public officials. Frequently these interactions provide information that is used in making disaster loan decisions or in the disbursement process. In all cases the fact and content of the conversation or exchange is relevant to the file history, and to subsequent users of the file.

A. All contacts must be documented in the Comments Tab of DCMS, generally as a Chron Log. You must record each contact or attempt to contact the applicant/borrower, or other parties (as identified above), regardless of who initiates the contact.

Your documentation should consist of a summary of the conversation or exchange and should include the name of each participant, the telephone number that was called or attempted and the result of the call, and a factual summary of the comments and statements made. Identify persons who are not the applicant by relationship or role (e.g., representative, banker, insurance agent, accountant, etc.).

B. E-mails. E-mail correspondence should generally be initiated or requested by the applicant or borrower. E-mails should be scanned into the file to document the contact.

C. Texting. Text messaging to your personal mobile device is not an approved or appropriate manner of interacting with disaster loan applicants or borrowers

1.13. CASE FILE DOCUMENTATION

A. Case File Maintenance

1. Each document received should be scanned so the document can be stored electronically in the case file.

2. Original collateral documents will also be maintained in a separate collateral file.

3. After final disbursement of loan funds and ensuring files are complete; both the case file and the collateral file must be forwarded to the appropriate servicing office. All electronic files are archived.

B. Original Documents

When you receive an original document (other than a loan closing document, e.g. applicant/borrower's deeds, abstracts of title, etc.) do not write on or mark the document.

1. Make a copy, mark it "copy", and date-stamp the received date on the copy; and

2. Scan the date-stamped copy into the case file and return the original(s) to the applicant/borrower.

C. Official Correspondence

1. Generally, we do not issue official correspondence without a date, printed (or typed) name, and organizational title (not the personnel classification). For example, employees classified as loan specialists or construction analysts should sign documents as Loan Officer or Loss Verifier, respectively.

1.14. CONGRESSIONAL INQUIRIES

A. Congressional inquiries generally go to Headquarters or the FOC-E and FOC-W and are answered directly, where appropriate. Each center must send a copy of all congressional inquiries and responses, or a record of telephonic congressional inquiries to the Office of Congressional and Legislative Affairs in SBA Headquarters, ODA, and appropriate district offices.

B. Center personnel who receive an inquiry from a Congressional office whether written or verbal, regarding a specific applicant/borrower must record the inquiry in the Chron Log and immediately refer the inquiry to the appropriate FOC Supervisory Public Information Officer (PIO).

C. The need for a Privacy Act release arises when the Congressional office begins to ask for specific information on why a person is ineligible, the reasons for decline, withdrawal, etc.

D. SBA cannot release personal financial (or other) information about a loan applicant or borrower to a third party, including a Congressional office, without a Privacy Act release (see Appendix 13).

CHAPTER 2

ORIGINATING THE LOAN APPLICATION

2.1. FEMA REGISTRATION

A. FEMA Registration Process - Presidential Declarations

1. Home loan inquirers who call FEMA are registered.

   a. In Presidential declarations, inquirers with a household income below the minimum income levels stated in the Income Test Tables (provided by SBA) are classified as Failed Income Test (FIT). They are referred by the FEMA registrar directly to Individuals and Household Program (IHP), bypassing the SBA process. For statistical purposes, FITs are not counted as SBA interviews.

      (1) Inquirers not classified as FIT are referred to SBA, and contacted via the auto-dialer process which results in the opportunity to apply for an SBA disaster loan.

2. Business loan (including EIDL) inquirers who call FEMA are also registered. However, because there are no FITs for business applicants, all inquirers are referred to SBA.

2.2. AUTO-DIALER CAMPAIGN

In Presidential declarations we use an automated outreach campaign to contact individuals and businesses referred from FEMA. This process informs the FEMA registrants of their referral to SBA for disaster assistance and provides options for obtaining a disaster loan application;

A. The recipients can elect to apply online via SBA's ELA, apply in person at a field location, request SBA mail them a disaster loan application, or indicate that they are not interested in applying for a disaster loan and request that SBA not make any further contact.

B. If we receive no response or are unable to reach the disaster survivor during the auto-dialer calls, we will mail them a letter with instructions on how to apply.

2.3. INITIAL DISASTER SURVIVOR CONTACT

A. Initial Interview Performed at any Disaster Assistance Center. This is your first contact with the disaster survivor. Their perception that SBA is ready to assist with a timely recovery through its loan program depends on how well you explain:

1. The program;

2. The application forms;

3. The importance of fully complying with our filing requirements; and

4. The availability of free assistance in completing the forms at an assistance center or by calling the CSC.

B. During the Initial Interview:

1. Determine whether the applicant and the damaged property are generally eligible. You cannot make final eligibility determinations at the initial interview stage. However, if it is obvious that the applicant or the property is not eligible (e.g., the applicant does not own the property or the property is not located in a declared area) you should inform the applicant of the potential decline action and give them the opportunity to refuse the application.

2. Explain the application forms and process in simple terms. After thoroughly explaining the program, advise the applicant you can assist with completing the Electronic Loan Application (ELA) or paper loan application onsite at the field location. If the applicants cannot complete the electronic loan application onsite, instruct them to complete it and file by the filing deadline date. Furnish the applicant(s) with the appropriate paper forms and instruct them to return the forms by the application filing deadline.

NOTE: We cannot refuse to issue an application to a disaster survivor who has not registered with FEMA. If the disaster survivor has not done so, you should encourage them to register with FEMA and advise them of the potential assistance from programs other than SBA (when applicable).

3. Determine initial repayment ability (generally for home loan applications) to ascertain if the application should be issued by:

a. Performing a preliminary Fixed Debt Method (FDM) summary decline analysis (see Appendix 6) to determine if applicants with household incomes above the income test table threshold are likely to have repayment ability. If yes issue the application.

b. If not, issue a summary decline. A summary decline is an SBA action (rule-of-two required) usually resulting in immediate referral to FEMA's IHP or other organizations. This action is appropriate if repayment ability is not evident using the preliminary FDM approach during an individual interview or while screening a home loan application.

c. In Presidential Declarations. When a summary decline is warranted, the applicant must be notified in writing and referred to FEMA IHP. As appropriate, referrals to other organizations may be included.

NOTE: Generally, when the lack of repayment ability is based on an application filed by only one individual (spouse, partner, co- owner, occupant, etc.) there is no referral to FEMA for possible grant assistance. However, if the inclusion of the income of the non-applicant spouse, partner, co-owner, occupant, etc. still results in a lack of repayment ability, a referral to FEMA for grant assistance is warranted.

d. In Agency Declarations. If other organizations (e.g. Mennonite Disaster Services, etc.) accept referrals from SBA, issue a summary decline with the appropriate referral.

e. Summary decline policies do not apply to Business or EIDL inquirers or to home inquirers who have self-employment income.

4. Disaster Home/Business Loan Inquiry Record (SBA Form 700). When assisting a disaster survivor at a field location, you must document the interview and record essential information using SBA Form 700.

NOTE: You must complete the SBA Form 700 regardless of whether the applicant has registered with FEMA in a Presidential declaration.

2.4. INTERVIEW TOPICS

A. Home, Physical Business, and Economic Injury Disaster Loans (EIDL). You cannot make eligibility determinations at the interview stage. Use the fact sheet associated with the declaration as a guide to discuss the purpose of the program with the inquirer, including the following:

1. Loan limits. Discuss the loan limits for the type of application.

a. Home Loans: SBA regulations limit home loans to $200,000 for the repair or replacement of real estate and $40,000 to repair or replace personal property, including vehicles. Loans can be increased by up to 20% of the verified physical loss for mitigation measures (not to exceed $200,000).

b. Business Physical and EIDLs: The statute limits business loans to $2,000,000 for the repair or replacement of real estate, personal property (inventory, machinery, equipment, etc.), and economic injury. The limit applies to the combination of physical, economic injury, mitigation, and refinancing. It applies to all disaster loans to a business and its affiliates for each disaster.

NOTE: See paragraph 7.5 for additional details regarding loan amounts.

Exception: When a business qualifies as a major source of employment (MSE), SBA has the authority to waive the statutory limit (see paragraph 7.6).

2. Eligibility

a. Home loan applicants. The owner(s) of the real and/or personal property are eligible to apply.

b. Physical business loan applicants. Businesses of any size or private non-profit (PNP) organizations that are the owners of real property, leasehold improvements and/or business contents are eligible to apply.

c. EIDL applicants. Only small business concerns, small agricultural cooperatives, small businesses engaged in aquaculture, or most PNPs are eligible to apply for working capital needs. (See paragraph 3.30 B for further information on EIDL eligibility).

3. Interest rate and terms. Discuss the interest rate(s) and terms for the declaration.

4. Repayment Ability. Issuing a loan application does not guarantee that SBA will approve the loan. Generally, we analyze Federal tax return/income information to substantiate repayment ability, and review credit reports to determine if obligations, including any current or past Federal debts, have been or are being met. We may require additional documentation of income, such as paystubs when an applicant has new employment within the last two years.

5. Use of Federal tax returns. In the case of a business applicant a hard copy of the most recent FTR for the applicant business is required.

a. IRS Tax Information Authorization Form - Home Loan Applicant: Applicants who submit only a home loan application are required to provide an IRS Tax Information Authorization form for themselves and are not required to provide a tax form for any affiliated business.

b. IRS Tax Information Authorization Form – Business Loan Applicant(s): The owner may be either an individual or entity and one form is required for each proprietor, each limited partner, each member who owns 20 percent or more interest, each general partner, each stockholder owning 20 percent or more voting stock, and each affiliate (see (3) below for definition of affiliate).

(1) You must obtain financial information from each owner and principal, as defined below. Generally, it is not necessary to obtain financial information from non-owner managers unless they have voting or management control.

An owner or principal may be:

(a) For sole proprietorships, the sole proprietor;

(b) For general partnerships, each general partner;

(c) For limited partnerships, each general partner and each limited partner who owns 20 percent or more interest in the applicant business concern;

(d) For corporations, each stockholder who owns 20 percent or more of the applicant's voting stock; or

(e) For limited liability entities, each member who owns 20 percent or more interest.

(2) In some cases you must consider certain individuals or business concerns that exert control over the applicant to be principals even if anyone or all of them owns less than 20 percent.

(3) Business concerns are affiliates if one concern controls or has the power to control another, or if a third party controls or has the power to control both. **Generally, an affiliate may be any concern of which the applicant, or its principals, owns 50 percent or more.** Other relationships may exist which may cause concerns to be affiliates. These include, but are not limited to:

(a) Common ownership management;

(b) Previous relationships or ties;

(c) Individuals or business concerns with substantially identical business or economic interests, such as family members or common investments;

(d) Business concerns that are economically dependent on each other through contractual or other relationships;

(e) Other relationships as specified in 13 CFR §121.103.

NOTE: For further information about affiliation, refer to 13 CFR§121.103. If you are unclear as to whether affiliation exists, consult your supervisor.

6. Secondary Home Ineligibility. A secondary home and its contents are not eligible for home loan consideration. However, you should explore potential eligibility under extended family or rental property guidelines (see paragraph 3.1 P and Q).

7. Condominium, HOA Units. If you are made aware that a home loan inquirer has damaged real property that is part of a condominium or homeowner's association, you must follow the guidance provided in paragraphs 3.23 and 3.24.

8. Relocation. Generally, SBA loan funds may be used to relocate. By law, however, SBA disaster loan funds may not be used to relocate voluntarily outside the business area where the disaster occurred. Advise the inquirer to discuss the relocation options if interested with the processing Loan Officer (see paragraph 3.28).

9. On-Site Verification of Damage. An on-site inspection of the damaged property by an SBA Loss Verifier will estimate the cost to repair or replace the disaster damaged real property (including manufactured homes) and contents. Prior to either the interview or inspection an applicant may dispose of damaged property or debris for health and safety reasons or avail themselves of free or low cost

disposal services. If practical, suggest (but do not require) pictures, written lists, or receipts for property prior to removal.

NOTE: There is no inspection when the loan application is only for an EIDL.

10. Insurance Coverage and Proceeds. SBA is prohibited by statute from providing assistance to applicants whose losses are covered by insurance or other compensation. You should ask if any insurance coverage was in force on the damaged property and if a settlement was received or is expected. If so, you should advise the applicant against voluntarily applying any insurance proceeds to reduce the existing mortgage(s). Explain that if the proceeds can be used to repair or replace eligible damage or losses, we will deduct them from eligibility.

11. Insurance Requirements on Approved Loans: If a loan is approved, SBA may require the borrower to purchase and maintain flood insurance and/or hazard insurance.

12. Refinancing. Refinancing of previous mortgages may be available only in certain cases where there has been substantial physical damage based on the uncompensated loss. Interested inquirers should discuss refinancing eligibility with their Loan Officer (see 3.27).

13. Information Required. You must advise the inquirer of the filing requirements and advise them to comply with the filing requirements to prevent delays (See Appendix 7). Advise the inquirer that if a loan is approved, additional information, such as proof of ownership, may be required.

14. Application Filing Deadline(s). Advise the inquirer of the filing deadline and if issuing an application, you must enter the deadline date on the application. You should also advise the applicant of the option of applying online at disasterloan.sba.gov.

15. Approved Loan Amount. Advise the inquirer that the loan amount is determined at the time of processing and that reductions to the eligibility are made when grants, insurance, and other funds are received and considered a duplication of benefits (DOB).

2.5. DISASTER LOAN APPLICATION PACKAGES

A listing of the forms contained in both ELA and paper for a home, business, and military reserve EIDL application packets is in Appendix 5.

2.6. PRE-APPLICATION ENTRY

The DCMS Pre-Application Entry function captures data about the applicant to provide tracking from the moment of first contact. A Pre-Application record also allows SBA to provide a follow-up with registrants if an application has not been received.

A. On Presidential declarations, the Pre-Application record is generated through the download of FEMA registration information.

B. On Agency declarations, the Pre-Application record is generated by direct contact through the FOCs or CSC, resulting in direct entry to DCMS by the contacted office, or through the submission of an inquiry record (SBA Form 700) to the PDC from field or partner locations.

2.7. FILING AN APPLICATION

Both ELAs and paper applications can be filed in person at a field location where SBA is located. Applicants can also complete and submit ELAs independently or mail paper applications directly to the PDC.

When completing an ELA at a field location, the applicant(s) has the option to complete the application themselves, with CSR assistance, or the CSR can assist in completing the application with information provided by the applicant(s).

2.8. FILING PERIOD

A. The deadline for returning completed loan applications (unless extended) is:

1. For physical loan, 60 days beginning the day after the date of declaration.

2. For economic injury disaster loan (EIDL), 9 months beginning the day after the date of declaration.

3. For EIDLs pursuant to Secretary of Agriculture designations, 8 months from the Secretary's designation.

4. For MREIDL, the filing period begins on the date the essential employee receives a notice of expected call-up, and ends 1 year after the date the essential employee is discharged or released from active duty. AA/DA may extend the one year limit by no more than one additional year after finding extraordinary or unforeseeable circumstances.

   NOTE: Official call-ups are the mechanism for determining the incident period for loan eligibility. Accordingly, loan requests for separate call-ups in the same fiscal year may require a new loan application. The Loan Officer should discuss with the applicant the benefits of filing a new application versus performing an increase on the existing application.

B. Extensions. FEMA or SBA may authorize extensions of the filing period.

2.9. THE GRACE PERIOD

We will accept applications postmarked (or submitted via ELA) within 15 days of the filing deadline (the "grace period") without justification from the applicant.

A. You should include a "Notice of Grace Period" with application packages distributed beginning 10 days prior to the filing deadline, and extending through the end of the grace period.

B. If an applicant cannot return the application by the end of the grace period, you must advise the applicant to include a written explanation addressing the inability to meet the filing deadline with the application. You should also explain that the determination for accepting the late application will be made once it is received.

2.10. ISSUING APPLICATIONS AFTER THE GRACE PERIOD

If requested you may direct the applicant to ELA (within 30 days after the filing deadline) or issue an application after the grace period without further justification from the applicant. When issuing an application after the grace period, you should issue a "Notice of Late Application" with the application. You must advise the applicant to include a written explanation addressing their inability to meet the filing deadline and explain the determination for accepting the application will be made once it is received.

2.11. ACCEPTING APPLICATIONS AFTER THE GRACE PERIOD

A. Applications not received or postmarked within 15-days of the filing deadline require the applicant's written explanation for the late filing. The request may be accepted only if we determine the late filing resulted from substantial causes essentially beyond the applicant's control.

B. If the applicant does not provide sufficient justification for the late filing, advise the applicant in writing that the late acceptance of the application has not been granted.

C. When a late application is received without a written justification or request for late filing, you should contact the applicant by phone or e-mail to determine the reason(s) for the late filing. If the late acceptance is justified, document the file and forward for final review. If attempts to contact are unsuccessful, issue a Notice of Late Application advising the applicant that we require a written request and explanation for the late filing.

D. The acceptance decision for a late application that has been denied two or more times must be made by the ACDAP.

2.12. FIELD SCREENING

Screening is the process of reviewing application submissions to determine if they are acceptable. For applications received at a field location, every effort should be made to complete the screening while the applicant (or representative) is present.

Acceptable applications must meet all filing requirements (see Appendix 7).

A. For Electronic Loan Applications (ELAs)

1. Advise the applicant of any additional documentation needed to make the application "complete" as it is not considered acceptable until all filing requirements have been received. At field locations, obtain the appropriate IRS forms and other documents for filing.

2. Forward any collected documents to the PDC ELA section.

NOTE: ELA cannot be signed when submitted electronically. An application is considered to be complete upon submission of the electronic application and receipt of a signed IRS Form 8821/4506-T and any other filing requirements.

B. For Paper Loan Applications:

1. Review the application to ensure all filing requirements have been met and the application form is substantially complete. The list of filing requirements can be found in Appendix 7.

a. If it is acceptable, mark the application with the date it was received by the Agency.

b. Complete the appropriate screening documents.

NOTE: If you receive an application without a Social Security Number (SSN), advise the applicant that SBA requires a valid SSN and/or a valid Tax Identification Number in order to process an application and therefore the application is unacceptable.

c. If it is unacceptable, advise the applicant to complete and/or provide any missing information.

NOTE: It is acceptable to have an application signed without a date.

2. Summary decline at screening: For home applications, CSR's in the field determine the applicant's ability to repay. The screener must apply both the minimum income test (see Appendix 4) and the preliminary fixed debt method approach (see Appendix 6). If the screener determines that the applicant's income falls below the minimum income level, or the applicant lacks repayment ability, the screener must advise the applicant in writing of the decline decision, and refer the applicant to other sources of assistance as appropriate.

NOTE: Applicant(s) who submit only a home loan application are required to provide an IRS Tax Information Authorization form (8821/4506-T) for themselves, but are not required to provide an 8821/4506-T for any business(s) they may own.

2.13. APPLICATION ENTRY

A. The following functions are performed during application entry (including ELA):

1. Input all incoming paper applications into DCMS.

2. Determine acceptability of application.

3. Check for duplicate applications.

4. Identify companion and associated applications.

5. Review, concur or non-concurrence of system generated summary declines.

B. Applications are checked to see that the application and Tax Information Authorization form(s) are substantially complete. Not all of the personal history questions as stated on the home application (except ELA) require a yes or no answer. If there is no response indicated the determination is that the applicant has answered the question as “no”. Applications lacking a social security number (SSN), signature or missing a significant amount of information are not acceptable and should be returned using the standard procedure.

C. Applications that are received using either a minor child as the applicant or the parent using the minor child’s SSN should be entered into DCMS and they will be declined for eligibility and referred to FEMA for potential assistance. In Presidential Declarations FEMA may provide assistance to minor children living in the home of an individual that does not qualify for assistance.

CHAPTER 3

LOAN ELIGIBILITY

APPLICANT ELIGIBILITY FOR HOME & BUSINESS DISASTER LOANS

3.1. APPLICANTS GENERALLY ELIGIBLE

Generally, eligibility for physical disaster loans resides with the legal entity or individual that owns the disaster damaged property (real property, manufactured home, contents, vehicle, etc.), subject to the limitations and restrictions within paragraphs 3.3, 3.4, and this paragraph. In order to establish preliminary eligibility, you must determine if the applicant is the occupant and/or the owner of the damaged property.

A. Applicants Legally Able to Contract Debt. The age at which an individual may legally contract to establish a debt varies among states. You must consult with the ACDA if the applicant is under 21 years of age.

B. Home Loan Applicants. The owner(s) of the real and/or personal property are eligible.

C. Businesses. Small business concerns, small agricultural cooperatives, small businesses engaged in aquaculture, and most PNPs are eligible to apply for working capital. There are no size restrictions for physical business disaster loans.

D. Organizing Businesses. A business that was in the process of starting operations and had purchased fixed assets, inventory, etc., that was subsequently damaged or destroyed by the disaster is eligible. This is true even if that business had not actually "opened its doors" before the disaster occurred. We require documentation to support this "organizing stage", such as:

1. Receipts or contractual agreements for inventory or machinery and equipment purchases; and

2. Advertisements, employment classified ads, etc.

E. Non-profit Organizations. Privately owned non-profit organizations (PNPs), including but not limited to PNPs that provide essential services of a governmental nature, charitable and religious organizations, social organizations, and homeowners associations, are eligible.

NOTE: Condominium and homeowners associations generally will be processed as a PNP. The determination should be based on their primary activity regardless of the type of tax return they file.

F. Owners of Rental Property. Owners of commercial or residential rental property are eligible for business loans.

G. Aliens. U.S. citizens, non-citizen nationals, and qualified aliens are eligible for disaster loans. Lawful presence in the United States, alone, is not sufficient to establish that the

individual is a qualified alien. Individuals are not eligible unless the legal basis upon which the individual has been admitted is a covered category. Refer to Appendix 8 for additional information.

1. Home Loan Applicants. We ask home loan applicants if they are a U.S. citizen on the application. Loan approval for qualified aliens is a matter of credit just as it is for all other applicants.

2. Sole Proprietors. We ask sole proprietors if they are a U.S. citizen on the application. Loan approval for qualified aliens is a matter of credit just as it is for all other applicants.

3. Corporations. Alien-owned corporations properly registered and licensed in the state where the disaster occurred are eligible. If any member owning 20 percent or more of the applicant business is in the USA they must be a qualified alien.

4. Partnerships. Alien-owned partnerships properly registered and licensed in the state where the disaster occurred are eligible. If any general partners or limited partners owning 20 percent or more of the applicant business are in the USA, they must be a qualified alien.

5. Limited Liability Entities (LLE). Alien-owned LLEs properly registered and licensed in the state where the disaster occurred are eligible. If any member owning 20 percent or more of the applicant business is in the USA, they must be a qualified alien.

H. Property Under a Contract for Sale or Similar Agreement.

1. Contract for Sale. When an applicant is purchasing the damaged property under a contract for sale or similar agreement, both the buyer and the seller may have eligibility for a portion of the disaster damage, as follows:

   a. When either party to the contract waives the claim for SBA disaster loan assistance, the other party is eligible to apply for a disaster loan in the amount of full eligibility;

   b. If a waiver cannot be arranged, the parties are eligible for their pro-rata share of disaster loan eligibility in proportion to their equity in the property;

   c. If loan eligibility is split (i.e., both parties apply for loans in the amounts of their respective equities), the real estate portion of both loans must be used to restore the property;

   d. You must secure both loans when the combined total is more than the secured level;

   e. You must secure any loan to the record titleholder (the seller) requiring collateral by a mortgage on the damaged property; and

f. If a loan to the buyer requires collateral, you must secure any loan to the buyer by either a mortgage executed by the seller, or an assignment of the buyer's interest in the purchase contract. Consult an Attorney Advisor on which instrument should be used to secure the property based on the order of preference and state law.

I. Purchasers of Damaged Property Subject to a "Contract for Sale/Contract to Sell".

1. Generally, purchasers of disaster damaged property, under a contract for sale negotiated before the disaster and consummated after the disaster without reducing the purchase price to allow for the disaster damage, have eligibility, rather than the seller. You must deduct from eligibility the proceeds of any insurance or other compensation for damages received by either party.

2. Purchasers of disaster damaged property, under a contract for sale negotiated before the disaster and consummated after the disaster with a reduction to the selling price, may have eligibility. The purchaser is eligible to the extent that the damage is not otherwise compensated, (by insurance or otherwise). You must consider any reduction in the purchase price as compensation, and reduce eligibility accordingly.

NOTE: Purchasers of disaster damaged property which was not under a contract for sale prior to the disaster may be eligible, to the extent that the change of ownership involves other family members, close relatives, partners, officers, or long-time employees. If you justify this change in ownership in the case file, these applicants retain eligibility (less any compensation/recovery by either the buyer or the seller) even if the disaster damage results in a reduction in the purchase price.

J. Joint Ownership Interest. When two or more parties have joint ownership interest in the damaged property, each owner potentially has eligibility.

1. This may include (but, is not limited to):

a. Record owners of the property (i.e.: identified as owner on title or deed); or

b. Parties purchasing the property under contract (see 3.1G)

2. SBA must not duplicate eligibility for multiple applicants. If all owners are not included as joint applicants, you should generally obtain an agreement from the non-applicant owner(s) waiving their eligibility to apply for SBA disaster loan assistance. This agreement may be obtained at closing.

3. When a non-applicant owner waives his/her eligibility, the applicant owner is eligible to apply for a disaster loan in the amount of the full property eligibility.

4. If a non-applicant owner is unwilling or unavailable to waive eligibility, you must determine if a deletion of the requirement for the waiver of eligibility is appropriate. In rare cases, ownership may be shared by numerous widely scattered owners (for example, among multiple descendants of an original

owner). In the event that a joint owner cannot be located, the applicant must provide written certification of the inability to locate the joint owner.

NOTE: A waiver of eligibility does not eliminate the need for the non-applicant owner to execute the required security document(s) if the property is used as collateral.

K. "Walk Away" and Short Sale Eligibility:

In some states, a mortgage foreclosure sale cannot result in a deficiency judgment against the purchaser under a purchase money mortgage.

1. When applicants walk away from their financial obligation(s), the amount of the disaster loan must not exceed their equity (where state laws permit mortgagors to walk away from their obligations). Equity is defined as SBA's estimated pre-disaster fair market value (FMV) of the damaged or destroyed real estate less all recorded liens the applicant can and does walk away from.

2. Those disaster applicants who can and do walk away from their obligations, regardless of their reasons for walking away, may borrow only the lesser of their net disaster loan eligibility or equity. This also includes situations where the damaged property is deeded back to a mortgage holder, who confirms that there is no further liability on the part of the purchaser.

   NOTE: When applicants are permitted to walk away, you must limit eligibility in accordance with the above policy regardless of any other real property eligibility considerations.

   For example, an applicant's real property has a FMV of $200,000 and a first mortgage principal balance of $175,000. The property is condemned by local authorities and is a total loss under our guidelines. The applicant decides to walk away and the mortgage holder agrees to accept the deed with no further liability. In this case, the applicant did not suffer a $200,000 loss, but rather an equity loss of $25,000, which represents the maximum eligibility.

3. Applicants who walk away from their obligations in states, which do not permit them to do so, retain full eligibility. However, there may be serious credit concerns due to the contingent liability of the debt walked away from. This also includes situations where a private party is the mortgage holder and they refuse to accept the deed or remove further liability from the purchaser.

4. For applicants who, as a result of the disaster, negotiate a short sale where the bank forgives a portion of the indebtedness on the mortgage loan against the damaged property, you must apply the amount forgiven as well as the amount received from the sale as a reduction to the applicant's uncompensated loss.

   Exception: In cases where the applicant has a project shortfall (not including ineligible upgrades), you may apply the reduction to the shortfall first. Only the amount in excess of the shortfall will be applied to reduce the SBA loan amount.

L. Beneficial Owners.

1. Individual local chapter charitable/non-profit organizations having full use of and benefits from property owned by the parent organization are each eligible for separate SBA physical disaster loans.

   For example, the American National Red Cross is vested with legal title to the real properties used by the various Red Cross chapters; however, each chapter raises its own funds, controls the use of the property, and is the "beneficial owner" of the property. We do not combine applications from several Red Cross chapters (or other similar organizations) as though they were affiliated.

M. Non-owner applicants who must repair or replace the damaged or destroyed property are eligible. The two most common non-owner applicants are:

1. Bailee-for-Hire. This occurs when property owned by one party is physically in the possession of another party at the time of the disaster. You should discuss bailment eligibility matters with an Attorney Advisor.

   a. Bailee's include but are not limited to warehousemen, garage keepers, parking lot operators, laundries, dry cleaners, automobile and other repair shops, and pawnbrokers.

      NOTE: This situation does not apply to property obtained by the pawnbroker following the customer's failure to redeem.

   b. If the bailee is legally liable and will actually compensate the bailor for an uninsured loss of bailed property, the bailee is the one who suffered the loss and has the eligibility to file an application. If not, the bailor is eligible.

   c. In establishing bailee eligibility, the case file must include evidence that:

      (1) The loss is not covered by insurance from either party;

      (2) The owner is requiring the bailee to pay for the loss; and

      (3) The owner will not file for SBA disaster loan assistance relating to that particular loss.

2. Tenants. A tenant may be required to repair or replace real property owned by the landlord.

   a. A tenant's duty to repair may be established as follows:

      (1) A complete, legible copy of the lease (or other legally enforceable agreement) in effect at the time of the disaster that reflects the tenant's duty to repair the property in the event of a casualty. An Attorney Advisor should review the lease to confirm if the appropriate "repair responsibility" clause is specific enough to warrant eligibility (a standard clause merely requiring the property to be maintained in good order does not warrant eligibility); or,

(2) If the lease is silent or unclear regarding the duty to repair you may consider other acceptable documentation (e.g. insurable interest or a statement from the landlord verbal or written) and justify the file accordingly.

b. In addition:

(1) You should confirm that the loss is not compensated by the applicant's (tenant) and/or the landlord's insurance. If coverage exists, an assignment of insurance proceeds and duplication of benefits analysis may be required; and,

(2) If something other than the lease is used to establish repair responsibility the non-applicant owner must agree to waive eligibility for the disaster damaged property.

(3) Disaster - related expenses for debris removal, cosmetic repairs, and to clean and sanitize, are generally considered the tenant's responsibility. Therefore, it is not necessary to confirm obligation to repair these items.

NOTE: Tenant eligibility for real estate or leasehold repairs established using an obligation to repair is site-specific and not transferable to a new location. In order for a tenant to be eligible for relocation of leasehold improvements, ownership of leasehold improvements must be established.

N. Owners of Leasehold Improvements (LHI). LHI is commonly defined as improvements made to leased real property by a Tenant (or on behalf thereof), pursuant to a lease (or other legally enforceable agreement).

1. Disaster - related expenses for debris removal, cosmetic repairs, and to clean and sanitize, are generally considered the tenant's responsibility. Therefore, it is not necessary to confirm obligation to repair these items.

2. The tenant who acquired the LHI at the tenant's expense prior to the disaster is considered to be the owner, even if the lease states that ownership of improvements conveys or will convey to the lessor. Eligibility remains if the tenant relocates.

You should confirm that the loss is not compensated by the applicant's (tenant) and/or landlord's insurance. If coverage exists, an assignment of insurance proceeds and duplication of benefits analysis may be required.

3. In order to confirm ownership of the leasehold improvement, you must obtain documentation reflecting the tenant installed/acquired the improvement at the tenant's expense prior to the disaster. You may use one of the following to document ownership:

a. Receipt(s) showing installation or purchase of leasehold improvements;

b. Depreciation Schedule from Federal Tax Returns showing depreciation of the leasehold improvements;

c. A statement (verbal or written) from the landlord indicating exactly what leasehold improvements were added/acquired by the tenant;

d. A copy of the lease showing leasehold improvements were/will be installed or acquired by the tenant; or

e. Other similar supporting documentation.

4. If the tenant did not install or acquire LHI at the tenant's expense prior to the disaster, tenant is not eligible unless a duty to repair the damaged property is established

NOTE: When it is established that the landlord/tenant has the duty to make the repairs but is either not willing or not able to meet their obligation eligibility can be given to the other party. The file must be fully documented and you must address possible insurance recoveries from policies held by either party.

O. Nurseries. SBA regulations define nurseries (nursery farms) as commercial establishments deriving 50 percent or more of their annual receipts from the production and sale of ornamental plants and other nursery products, including, but not limited to, bulbs, florist greens, foliage, flowers, flower and vegetable seeds, shrubbery, and sod. Nursery farms are not eligible for physical disaster loans.

For purposes of physical disaster loan eligibility, a business deriving less than 50 percent of annual receipts from the production of nursery products is not an agricultural enterprise (see paragraph3.4 G) and is eligible. Refer to paragraph 3.30 for EIDL eligibility.

P. Owners of Rental Property. Owners of commercial or residential rental property are eligible as business applicants if:

1. The property is held for rental income instead of for the owner's personal use/recreation; and

2. The property is not considered a residence under § 280A of the Internal Revenue Code (26 U.S.C.);

NOTE: Properties used by the owner for the greater of 14 days during the tax year or 10% of the fair rental days are a residence per §280A of the Internal Revenue Code (26 U.S.C.) and therefore not eligible under the disaster loan program.

Q. Owners of an Extended Family Property. Owners of an extended family property are eligible as home applicants if:

1. The individual(s) occupying the home are close family members, lifelong family friends, long time business associates or employees, or maintain more than a casual relationship with the owner(s); and

2. You confirm (verbally or in writing) there has been, and remains, the intent to provide long term, housing to those individuals. (A short-term occupant in a rent free vacation home would not qualify as the owner for this exception).

   For example, a son owns and maintains a home for his mother. The mother pays no rent to the son. By definition, the home is the mother's primary residence, but for disaster loan purposes, the son is the eligible applicant since eligibility is tied to ownership, not occupant.

3. We do not require the occupant to be a joint applicant on a loan to repair the owner's building to establish eligibility. Include the occupant only when necessary for credit considerations. The occupant has separate eligibility for personal property (PP) losses.

4. If the occupant chooses to vacate after the disaster through no action of the applicant, eligibility may still exist but must be justified.

5. It is possible for one applicant to apply for and obtain more than one home loan for damages resulting from the same disaster. For example, the applicant has damage to a primary residence and damage to a residence occupied by another (e.g. extended family). If this occurs:

   a. You must combine the loan amounts for purposes of determining the secured threshold; and

   b. The combined dollar amount of the loans cannot exceed the administrative limit applicable to a single home loan.

R. Native Americans. Disaster declarations can include all or a portion of an Indian Reservation. Individual Native Americans who own property located on a reservation are subject to certain eligibility requirements and restrictions.

1. Home Loan Applicants

   a. Personal Property Losses. Native Americans who live on a reservation are eligible to apply for personal property losses. They are subject to the same eligibility requirements as any other disaster applicant.

   b. Real Property Losses. Generally, eligibility for real property losses to a primary residence located on a reservation is limited to those structures or improvements associated with the primary home. There is no eligibility for the land or improvements owned by the tribe, since we consider the tribe to be a "governmental entity". You may also apply the concept of beneficial ownership to establish eligibility.

2. Business Loan Applicants.

   a. Individually owned businesses located on a reservation are eligible to apply for losses to business property, except for land or improvements owned by the tribe, and are subject to other program requirements.

b. Native American Tribal Owned Businesses. SBA considers Native American tribes "governmental entities." They are ineligible for disaster assistance. However, in certain circumstances a tribal corporation may be separate from the tribe. Under the following provisions, and with required documentation, ACDA should consider eligibility of a tribal owned business.

The loan package must include the tribe's governing instrument (e.g., constitution or business charter) and the tribal corporate charter (may be an ordinance or resolution of tribal council). Examine the documents for the following:

(1) The governing document must expressly set forth powers and authorize delegation to a (business) committee (e.g. to manage the economic activity of the tribe).

(2) Chartering a tribal corporation must be a direct mode of executing the expressed powers.

(3) The charter authorizing a tribal corporation must designate the corporation to be separate and distinct from the tribe.

(4) The tribal corporate charter must contain a waiver of sovereign immunity. This may be accomplished with an express waiver of sovereign immunity; or by use of a sue or be sued clause, in which case U.S. (Federal) courts should be specifically designated to be among the "courts of competent jurisdiction."

(5) The tribal corporation must have its own assets to pledge as security for the loan (because the waiver in subparagraph (4) above does not apply to tribal property or assets). We must examine the assets pledged to assure that they are not tribal property nor among the tribe's assets being held in trust or restricted status.

(6) The tribe may include a written analysis by its attorney in support of the loan application and related documents.

Consult ACDA in cases in which eligibility is not clear.

S. A mortgagee (mortgage holder) who began legal action against the defaulting property owner prior to the disaster is eligible if all other relevant criteria are met. Generally, you should consult ACDA to determine eligibility.

T. Interim/Bridge Loans. Reimbursements of these loans are eligible when the proceeds were used for eligible disaster related needs.

3.2. PRIVATE NON-PROFIT ORGANIZATIONS

A. Eligibility: PNPs may be eligible under a Presidential (Individual Assistance (IA), or Public Assistance (PA)), Administrative, SecAg, Governor's Certification 7(b) (2) (D), or Secretary of Commerce 308(b) declaration.

1. PNPs of any size may be eligible for physical or EIDL assistance. PNPs are subject to applicable eligibility requirements in Chapter 3 and Chapter 4. Eligibility issues specific to homeowners' associations and other property associations are addressed in paragraphs 3.25 and 3.26 respectively.

2. Under Presidential PA declarations *only*,

Only PNPs that provide essential services of a governmental nature are eligible for assistance. FEMA treats PNPs differently depending on whether the PNP is deemed critical.

a. A PNP facility that is deemed critical may apply directly to FEMA to be considered for grant assistance for uninsured disaster-related damages to the facility.

FEMA defines critical services as fire department services, emergency medical care, emergency rescue, power, water supply and some irrigation services, communications, sewer services, wastewater treatment, and nursing homes.

b. A PNP facility which provides noncritical essential services of a governmental nature must first apply to SBA to be considered for a disaster loan for permanent repairs and/or replacement before it may seek FEMA grant assistance. If SBA determines the PNP noncritical facility is ineligible for a disaster loan, or the PNP has obtained the maximum amount for which SBA determines the facility is eligible, the PNP may then apply to FEMA for grant assistance for permanent repairs for its unmet disaster-related needs. For emergency repairs and debris removal, such PNPs may apply directly to FEMA.

FEMA defines non-critical services as museums, educational facilities, zoos, custodial care facilities, libraries, alcohol & drug rehabilitation centers, community centers, battered spouse programs, homeless shelters, low-income housing, shelter workshops, and food programs for the needy, senior citizen centers, daycare centers for special needs, etc.

c. Eligibility may be demonstrated by providing a copy of the tax- exempt FTR or equivalent document. A copy of the IRS or state ruling letter is not required.

NOTE: Churches generally qualify for exemption under Internal Revenue Code section 501(c)(3). Churches that qualify under this section are automatically considered tax-exempt and are not required to seek an exemption or file a tax return.

d. Use standard business processing criteria for determining repayment ability and credit elsewhere

B. Low Income Housing.

Congress recognized that a private sector developer may not receive enough rental income from a low-income housing project to (1) cover the costs of developing and operating the project and (2) provide a return to the investors sufficient to attract the equity investment needed for development. Tax credits have been provided as a means to stimulate the development of new and rehabilitated rental housing for low-income housing. Nonprofits play an important role in providing low-income housing and their ability to joint venture with for-profit concerns has increased the number of projects developed. This arrangement is generally accomplished by the creation of a partnership with the for-profit concern that is designated as the limited partner and 99-percent owner. This structure allows the private nonprofit the control of the project while providing the investors the tax benefits related to the tax credits. The agreements generally provide that the limited partners have no obligation for operating or capital costs after their initial investment, and require the general partner make up any operating deficits.

The limited partnership and its general partner (private nonprofit entity) operating the low-income housing project shall be designated as the SBA disaster loan applicant, provided that it is organized and operating in accordance with Section 42 of the Internal Revenue Code.

In determining repayment ability and credit elsewhere, only the tax and financial information on the limited partnership and the general partner shall be considered. (Often the limited partnership and the general partner may not have repayment ability because any cash flow that could be used for SBA loan payments would come from the operating budget that must provide low-income housing. Further, every dollar of debt service would have to be offset with rent increases or grants from other government programs or private donations).

3.3. RESTRICTIONS ON APPLICANT ELIGIBILITY

You should determine the eligibility of the owner prior to addressing the credit worthiness of the applicants and the repayment of the loan.

A. Businesses Considered as Hobbies. Some endeavors constitute hobbies of the owner even though they are organized as a business. As hobbies, they are not eligible for physical loss or EIDL assistance. If you have reason to believe that an endeavor is in fact a hobby, determine if IRS has reviewed the business status. In the absence of an IRS review, consider whether the business is properly licensed by appropriate authorities, and whether reasonable efforts have been made to operate as a business rather than a hobby.

B. Applicant's Character. It is not in the public interest for SBA to extend financial assistance to persons who are not of good character. If any adverse information develops concerning the character or background of an owner of the disaster damaged property, as disclosed on SBA Form 912, "Statement of Personal History", or from any other source, SBA must make a determination as to the applicant's character before a loan can be approved. (See paragraph 3.6). If an owner is deemed ineligible due to character, a decline is warranted even if the co-applicant(s) have requested the ineligible owner be removed from the application.

C. Certification of Compliance with Child Support Obligations.

1. Home Loan and Sole Proprietor Applicants. By statute (Small Business Act §4(f)), at the time of loan closing, applicants must certify that they are not more than 60 days delinquent in child support under the terms of any administrative order, court order, or repayment agreement (entered into between the individual and the custodial parent or state agency providing child support enforcement services).

2. Other Business Loan Applicants. The above restriction also applies to certain business principals. If any business principal with a 50 percent or greater ownership interest in the applicant is more than 60 days delinquent in child support under the terms of any administrative order, court order, or repayment agreement (entered into between the individual and the custodial parent or State agency providing child support enforcement services), you can process the application only if that individual(s) will divest all direct and indirect interest in the business. The CD/PDC must approve these actions.

D. Membership Groups.

1. Whenever a fraternal organization, country club, civic, or other membership group requests disaster loan assistance, you must immediately notify the applicant:

   a. SBA's regulations apply to their membership policies;

   b. Consideration of race, color, religion, sex, handicap, age, or national origin of applicants for membership in the organization would, during the term of the loan, be inconsistent with the non- discrimination requirements of the Civil Rights Act; and

   c. SBA will consider that SBA’s regulations override any existing restrictions in the national or local charter, Bylaws, or regulations of the organization denying membership because of race, color, or national origin.

   NOTE: Churches (or other religious organizations), HOAs and co-ops are not membership groups for the purpose of this paragraph.

2. The applicant must provide a written statement certifying that the group membership policies do not discriminate against any individual on the basis of race, color, religion, sex, handicap, age, or national origin. For National Organizations, the written statement must certify that the nondiscrimination policies will not result in a loss of the national charter, income from membership fees, or affect the other affiliations with the National Organization. Any of these circumstances could impact repayment ability.

3. These restrictions also apply to ethnic, fraternal, or social organizations that use national origin as membership criteria, such as Sons of Italy, Friendly Sons of St. Patrick, etc., and they are subject to the provisions of Title VI of the Civil Rights

Act of 1964. Therefore, they must agree to admit members without regard to national origin as a condition of receiving a disaster loan.

4. Exemptions from the Nondiscrimination Requirements under the Civil Rights Act. These exemptions pertain only to gender discrimination, and apply to:

a. Educational institutions of religious organizations with religious tenets contrary to the nondiscrimination law;

b. Educational institutions training individuals for military service or the merchant marine;

c. Social fraternities or sororities which are tax exempt and whose membership primarily consists of students in attendance at an institution of higher education;

d. Certain voluntary service organizations:

(1) YMCA;
(2) YWCA;
(3) Girl Scouts;
(4) Boy Scouts; and/or
(5) Campfire Girls.

e. Boys and girls conferences (the American Legion Boys State, Boys Nation, Girls State, and Girls Nation Conferences) and promotional activities of secondary schools or educational institutions for these conferences;

f. Father-son or mother-daughter activities at educational institutions, so long as the activities are provided for students of both sexes; and

g. Institutions of higher education scholarship awards in "beauty pageants" as long as the pageant complies with the other nondiscrimination provisions of Federal law.

3.4. APPLICANTS GENERALLY INELIGIBLE

A. Purchasers of Disaster Damaged Property are ineligible, including, but not limited to, the following:

1. Businesses. This includes substantial change in ownership, which is defined as a change in ownership of more than 50 percent of the equity. (This restriction does not apply to those transactions described in paragraph 3.1 H and I)

2. Homes. (The restriction also does not apply to those transactions described in paragraph 3.1 H and I)

B. Publicly Owned Institutions and Public Entities. Cities, counties, etc., are ineligible for SBA disaster loans.

C. Assumption of Risk and Failure to Comply. Generally, applicants who assumed the risk or possibility of loss or failed to comply with the terms and conditions of their prior SBA loans (including loans subsequently sold to a third party) are ineligible:

1. Failure to Maintain Required Federal Flood Insurance. Recipients of prior SBA loans (disaster, 7a and 504) who did not maintain required Federal flood insurance on the disaster damaged property are not eligible for any SBA disaster loan assistance caused by flooding. If the amount of coverage maintained is less than what was previously stipulated, the eligibility must be adjusted to account for the lack of insurance the applicant should have maintained on the property.

   a. For any disaster loan you must check the available records to determine if flood insurance was required. When available, you should determine if flood insurance was required by reviewing the Agency's electronic loan records. If electronic records are not available, you should contact the appropriate SBA servicing office.

   b. There were variations in procedures related to flood insurance requirements in non-disaster SBA loans (7a and 504) and you cannot assume that maintenance of flood insurance was a requirement of those loans. When an applicant has an outstanding SBA business loan, the following steps must be taken.

      (1) You must check with the appropriate SBA district (or other servicing office) to determine what specific flood insurance requirement (if any) was conditioned in the loan authorization.

      (2) When the borrower has complied with the conditions of the LAA, or when the available written record is inconclusive, the borrower is otherwise eligible.

   NOTE: Failure to maintain flood insurance required on a property other than the disaster damaged property does not disqualify the applicant from disaster assistance. However, you must consider this in your credit decision.

2. Failure to Maintain Required Insurance (other than flood). Recipients of prior SBA disaster loans who did not maintain the insurance stipulated in their loan authorization are not eligible for any SBA disaster loan assistance caused by any type of future disaster. If the amount of coverage maintained is less than what was previously stipulated, the eligibility must be adjusted to account for the lack of insurance the applicant should have maintained on the property.
   Generally, recipients of prior SBA business loans (7a and 504) who failed to maintain stipulated fire and extended coverage insurance are ineligible. You must justify any variance from this general policy.

3. Failure to Comply With Loan Authorizations. Generally, applicants who did not comply with the terms and conditions of the loan authorization(s) of prior SBA loan(s) such as unsatisfactory loan repayment history, are ineligible. You must justify any variance from this general policy.

NOTE: Obtaining a copy of the LAA is not necessary if you are able to review the Agency's computerized loan history records or can contact the SBA servicing office to make a determination (refer to paragraph 5.7).

D. Applicants who do not intend to repair or replace damaged property are ineligible.

E. A Mortgage Holder who both instituted foreclosure action and acquired title after the disaster is ineligible.

F. Owners of Unimproved Real Estate held for speculation, investment, or future development are ineligible (see limited exception at paragraph 3.14).

G. Farmers/Ranchers/Aquaculturists

1. Under section 7(b) of the Small Business Act, SBA may not provide disaster loans to agricultural enterprises. A business may be primarily an agricultural enterprise but also have a non-agricultural, separable component. The non-agricultural venture may be eligible for a business physical disaster loan regardless of the "primary" activity of the overall business structure or affiliated group. To be eligible, the non-agricultural venture must be a separable operation and not just part of the agricultural enterprise, with separable and distinguishable income, operations, expenses, assets, etc.

2. Section 18(b) of the Small Business Act defines agricultural enterprise as those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture (see exception in subparagraph 3 below), and all other similar farming and agriculture related industries. This definition is not limited to products for human consumption. Most agricultural enterprises fall into Industry Sector 11 of the North American Industry Classification System (NAICS).

3. Aquaculture is included in the statutory definition of an agricultural enterprise, and is ineligible for physical disaster loan assistance, although it may be eligible for EIDL assistance. Aquaculture is defined as the propagation and rearing of aquatic organisms in controlled or selected aquatic environments for any commercial, recreational, or public purpose. An aquaculture operation generally is engaged in husbandry of aquatic organisms on grounds, which the applicant owns, leases, or has an exclusive right to use. Exclusive use-rights are usually documented by a lease or a permit specifically identifying the waters available for the applicant's use. For example, oystermen who seed private grounds, which they own or rent, are engaged in aquaculture and are ineligible for physical disaster, loan assistance. Public ground oystermen, however, who do not have exclusive use of any area, are eligible. See also paragraph 3.30 B 4.

H. Concerns Engaged in Illegal Activities.

I. Production and Distribution of Obscene Material. By statute (Small Business Act §4(e)), we cannot provide assistance to any business concern or other person engaged in the production or distribution of any product or service determined to be obscene by a court of competent jurisdiction.

J. Concerns Engaged in the Sale of Products or Services or Live Performances of a Prurient Sexual Nature.

K. Individuals Convicted During the Past Year of a Felony Committed During a Riot or Civil Disorder or Other Declared Disaster.

L. Members of Congress.

1. 18 U.S.C. §431 prohibits SBA from making a disaster loan to an unincorporated business or a disaster home loan, when a Member of Congress holds a direct or indirect ownership interest.

2. In the disaster loan program, with limited exceptions, Members are prohibited from entering into a contract directly (e.g., a mortgage, deed of trust, promissory note or personal guarantee) with SBA. However, the law does not prohibit SBA disaster loans to corporations in which a Member holds an ownership interest that would not require the Member of Congress to sign a contract with SBA.

NOTE: If the Member would be required to sign the SBA guarantee, the applicant corporation is not eligible. See paragraph 7.12 for guarantee requirements.

3. Some examples of the application of this requirement are:

a. SBA can make a disaster loan to a corporation in which a Member owns stock if the Member does not execute a mortgage, deed of trust, note, security agreement, or personal guarantee or any other contract directly with SBA.

b. SBA cannot make a disaster loan to a Limited Liability Entity (LLE) in which a Member has a membership interest.

c. SBA cannot make a disaster loan to a partnership in which a Member is a partner.

d. SBA cannot make a disaster loan to a sole proprietorship owned by a Member of Congress.

e. SBA cannot make a disaster loan for damage to a home in which a Member has a direct or indirect ownership interest or if the Member has a fiduciary interest (e.g., power of attorney or trustee) with respect to the home.

NOTE: The prohibition contained in 18 U.S. C. §431 applies differently in the context of the SBA 7(a) and 504 loan programs.

M. Organizations. Owned by a government entity, including non-profit organizations, are not eligible.

3.5. EQUAL CREDIT OPPORTUNITY ACT (ECOA)

SBA may not arbitrarily require the signature of a non-applicant owner or spouse to join in a loan application solely due to marital status or ownership. Therefore, we cannot deny eligibility based on a non-applicant owner's or spouse's refusal to join the application or sign the Note

Equal Credit Opportunity Act (ECOA). ECOA also prohibits discrimination on the basis of race, color, sex, marital status, religion, national origin, age, receipt of income from a public assistance program, and the exercise in good faith of rights under the Consumer Credit Protection Act. It applies to all loan programs covered in this SOP. For business loan applications, it covers sole proprietors, partners, corporate officers, directors, and stockholders.

A. The ECOA and the laws of each state affect who SBA may or should require to sign disaster Notes, collateral documents, and guarantees. ACDA must advise of the proper procedures and requirements for each state. The following is a general explanation of the ECOA (Title VII of the Consumer Credit Protection Act). References to "Regulation B" in this chapter are references to Regulation B (12 CFR Part 202) issued by the Board of Governors of the Federal Reserve System which supplements ECOA.

B. A person applying for a loan is entitled to a credit decision based upon that applicant's creditworthiness. This decision is made without regard to the person's gender, marital status, age, race, color, or national origin. We cannot request financial information about a spouse, or otherwise require additional applicants.

C. A person (including a spouse) who has not signed the application, but who has signed other documents (such as a Personal Financial Statement or IRS Form 8821/4506-T), is not considered to be an applicant on the loan absent specific permission and agreement, preferably in writing.

1. In order to add a co-applicant to an application, you must confirm the applicant's intent to be joined on the application by the additional party and by direct contact, the other party's express consent to be added as a co-applicant. If not provided in writing, a detailed Chron should be entered, detailing each conversation and the intent and consent of each party.

D. Because you cannot request financial information about a spouse, you cannot ask whether a spouse is working and can contribute to the family income. Therefore, you should make a reasonable judgment on the amount an owner must draw to support their dependents. If the remaining income is inadequate to repay, you must decline the loan. You can consider spousal income only when the applicant (principal) and the spouse volunteer this information. When you rely on a spouse's income for repayment ability, we may ask reasonable questions to determine the probable continuity.

E. SBA cannot ask a spouse to sign a Promissory Note, guarantee, or other document solely because of marital status. However, a spouse or non-applicant owner may be required to sign all collateral or obligation documents covering property in both names if required under state law to perfect SBA's collateral.

NOTE: You are not precluded from obtaining information from a non-applicant owner in an effort to establish eligibility

3.6. CHARACTER DETERMINATION

It is not in the public interest for SBA to extend financial assistance to persons who are not of good character. If any adverse information develops concerning the character or background of a disaster loan applicant or principal owner, as disclosed on SBA Form 912, "Statement of Personal History", or from any other source (e.g. SBA application), SBA must make a determination as to the applicant's character before a loan can be approved.

A. We do not approve loans if the applicant or principal owner is presently on parole or probation following conviction of a serious criminal offense. However, ODA will consider approving an application submitted by partnerships, corporations, and LLEs, where the apparent bar to eligibility was committed independently of any official act for the business and the individual will divest all direct and indirect interest in the business.

B. General Rule. If the personal history question on Form 5 or 5C is answered "Yes", you must:

1. If recommending a decline or withdrawal for other than character reasons, the decline or withdrawal letter must include the appropriate reason(s) for decline or withdrawal, and notify the applicant that a character element of SBA's loan consideration procedure has not been resolved. The letter should require that the applicant provide SBA Form 912 (and fingerprint card if appropriate) and an explanation of the offense with any reconsideration/reacceptance request.

2. If recommending approval, you must require the applicant to submit an SBA Form 912 and an explanation of the offense. The ACDAP will review the information to determine if the fingerprint requirement can be waived.

a. If fingerprints are waived, we can approve the application, after appropriately annotating SBA Form 912 and forwarding it to Office of Security Operations (OSO).

b. If fingerprints are required, you must withdraw the application. You cannot take any action until we obtain an evaluation of the character issue from ODA.

C. Persons Convicted of a Felony During and in Connection with a Riot or Civil Disorder or Other Declared Disaster.

1. Individuals convicted during the past year of a felony during and in connection with a riot or civil disorder or other declared disaster are not eligible by statute (see P. L. 90 448, 106(e)), Department of Housing and Urban Development (HUD) act of l968, and 13 CFR §123.101(a)). You must decline their application for policy reasons.

If the conviction was more than one year ago, these applicants must complete an SBA Form 912 and a fingerprint card. We cannot approve their application until we obtain an evaluation of the character issue from ODA.

D. Form 912: Statement of Personal History. The response to the personal history question on the applications (SBA Form 5 or 5C) determines whether an SBA Form 912 is required.

If the question is answered in the affirmative, you must require the applicant to provide Form 912 and an explanation of the offense. If the applicant did not respond to the personal history question, you must contact the applicant to ascertain the answer to the question.

E. Fingerprints. If we receive an SBA Form 912 with an affirmative answer to questions 7, 8, or 9, concerning past criminal history, we must determine if a fingerprint sample (obtained on FBI Form FD-258, "Fingerprint Card") is necessary.

1. The CD/PDC, DCD/PDC, or the ACDAP, can determine if fingerprints are needed. In deciding whether fingerprints are required, consultation with ACDA may be helpful and appropriate.

2. If the past criminal activity disclosed on SBA Form 912 is both minor in nature and was committed more than 10 years ago, fingerprints may not be required to continue processing.

F. Completion of Character Evaluation: When ODA completes its character evaluation and notifies the PDC of the decision, the ACDAP will:

1. If the applicant is found eligible, reactivate the application and complete processing; or

2. If not eligible, reactivate and decline the application for policy reasons.

ELIGIBILITY OF PROPERTY FOR PHYSICAL DISASTER LOANS

3.7. GENERAL ELIGIBILITY RULE

Generally, property damaged or destroyed by a declared disaster is eligible. However, certain statutory, regulatory, and SOP restrictions and limitations apply. Individual disaster assistance offices and employees must not impose limits or restrictions not provided by statute, regulation, or this SOP.

3.8. LOCATION OF PROPERTY

The applicant's property must have sustained damage while located within the geographic area identified in the disaster declaration.

A. Applicants whose primary residence is mobile such as a boat, motor home, or travel trailer are eligible if the residence was located within the declared area at the time of the disaster.

B. A traveler's personal property temporarily located in a declared area at the time of the disaster is eligible.

3.9. ESTABLISHING OWNERSHIP

You must establish that the applicant is the owner of the damaged property.

A. Ownership.

1. A vesting report or other document which reflects ownership and contains a legal description for the damaged property is generally sufficient to establish ownership. However, for both unsecured and secured loans, when legal ownership documents are not already in the case file, you may use one of the following sources to establish real estate eligibility:

   a. Official Record Recorded installment land sale contract, probated will, court records, divorce decree, marital separation agreement, etc.;

   b. Affidavit from county official;

   c. Property tax records;

   d. Contact with the mortgage company, or

   e. NEMIS, if ownership is based on a similar source as reflected above.

2. If the collateral property is different than the disaster damaged property you should request a vesting report for each collateral property (unless a current deed has already been obtained). In the event that a vesting report is unavailable, you must request a current deed from the applicant using a Conditional Commitment letter or condition the loan for a copy of the deed.

3.10. PRIMARY RESIDENCE ELIGIBILITY

Although some applicants may have more than one residence, for SBA disaster loan eligibility purposes, an applicant can have only one primary residence (see limited exception at paragraph 3.1 Q).

A. Determination of a Primary Residence.

1. For either a homeowner or a renter, a damaged residence (e.g., house, apartment, condominium, manufactured home, etc.) is eligible only if it is the applicant's primary residence. A secondary residence (including contents located therein) is not eligible. The primary residence determination is based upon the residence of the applicant. Eligibility may be established so long as the property is the primary residence of at least one of the applicants; this may include a married couple who are residing at two different locations.

   For example, if an application indicates ownership of two residences, but one of them is clearly substantiated by Federal Income Tax Returns (FTR) as rental income property, no further inquiry is necessary to establish the other home as the primary residence

2. Where the listed factors point to more than one location, you must make a determination based upon the totality of the evidence, including the applicant's narrative of the circumstances and other facts in evidence in the file. If primary residency at the damaged location appears to be consistent with the lifestyle and activities of the applicant in question, and key factors can be reconciled by the applicant's statements, you may find primary residency. The following factors should be considered in making the determination:

   a. Filing by an applicant for homestead exemption or similar filing in those states that permit these filings. Similarly, in some tax jurisdictions, an applicant's home may be taxed at a preferred rate based on owner-occupancy status, which confirms primary residence status.

   b. Address used for voting purposes.

   c. Address used for identifying the school district to which children are assigned.

   d. Address used on the FTR.

   e. Last known address on the credit bureau report.

   f. Other similar factors.

   g. NEMIS if it is based on a similar source as reflected above.

   Once the Loan Officer makes a determination on primary residence eligibility, the Justification Tab should be fully documented.

B. Mixed-use Structures. In general terms, a mixed - use structure has separate areas dedicated for residential living space and commercial activity, such as a duplex or a store with an upstairs apartment. The business area is not intermingled with the living space. Existence of a home office or business activity within the living area of the home does not generally require it to be treated as a mixed- use structure. When an owner of a mixed-use structure occupies a portion or unit as a primary residence, eligibility for damages is based on the predominate use of the structure.

   1. Personal property losses or non-real property losses should be addressed in their respective case files.

   NOTE: Single family residences where a room (s) is being rented or where there is a home based business (intermingled with the living space) should generally be processed as a home loan. When the applicant would not receive full eligibility due to the administrative limit or requests economic injury it would be in the best interest of the applicant to process the rental/office real estate as a business loan.

C. Primary Residence Located on a Farm. A primary residence located on a farm is eligible. All home loan criteria apply to these applications (See paragraph 3.11).

3.11. AGRICULTURAL PROPERTY

Agricultural property is not eligible. However, the applicant's primary residence, personal property contained therein, and access road to the residence are eligible under home loan criteria.

3.12. REPAIR OR REPLACEMENT COST ELIGIBILITY FOR STRUCTURES

The purpose of physical disaster loans is to return the damaged property as nearly as possible to its pre-disaster condition (within statutory, regulatory, and policy limitations described in this SOP). Generally, the dollar eligibility for structures is the cost to repair or replace the underinsured or uncompensated damage.

A. Types of Structures. Generally, all structures and buildings are eligible. For home loans, non-dwelling structures such as garages, storage sheds, guest houses, etc., whether attached or detached, are eligible (see limitations in paragraph 3.15). Similarly, for business loans, most structures and outbuildings are eligible unless specifically limited.

B. Types of Repair or Replacement Costs. Costs associated with repair or replacement of disaster damaged structures is either direct or indirect.

1. Direct Costs. In addition to the actual costs to physically repair the property, there may be other direct costs associated with rebuilding such as code required upgrades. The Loss Verifier is responsible for determining these costs.

2. Indirect Costs and Expenses. Certain other costs and expenses associated with repairing or replacing structures are eligible. Often these were not known to the Loss Verifier at the time of the original site inspection and were not included in the Loss Verification report. Examples of indirect costs include (but are not limited to): engineering fees, survey costs, architectural fees, initial insurance premiums, etc. If known at the time of processing, you may include these expenses in the loan amount. If discovered after loan approval, you may increase the loan. If necessary, consult with the appropriate department (i.e., Loss Verification or Accounts) before including any indirect costs in the loan amount.

C. Rental or Investment Properties. When the pre-disaster FMV of a rental or investment property (not owner-occupied residences or commercial real estate occupied by the owning business or an affiliate) is depressed because of factors other than the disaster itself (e.g., substantial deferred maintenance), eligibility cannot exceed the pre-disaster FMV. This restriction avoids providing subsidized disaster funds on favorable terms to owners who have not adequately maintained their property. It also accounts for otherwise depressed economies and real estate markets. This exception applies regardless of whether the owner intends to repair, replace, or relocate. (Owner- funded upgrades or improvements are permitted.)

D. National Register of Historic Places. You must seek supervisory guidance regarding construction guidelines, zoning, or other considerations prior to processing buildings or structures included in or eligible for the National Register of Historic Places.

E. Deferred Maintenance. The Loss Verifier will address deferred maintenance during the on-site inspection. Generally, deferred maintenance is not eligible. However, minor

deferred maintenance which must be dealt with in order to make disaster repairs is eligible.

NOTE: The Loss Verification Report or case file should clearly notate whether the deferred maintenance is or is not included in the verified loss. If the file lacks this documentation, the LO may consult with the LV department.

3.13. MANUFACTURED HOUSING ELIGIBILITY

A. Use of Manufactured Housing:

1. Used as the applicant's primary residence is processed under home loan criteria.

2. Held for resale is inventory and processed under business loan criteria.

3. Used for rental income purposes is processed under business loan criteria.

4. Used for any other purpose(s) may be eligible depending on the specific use.

   For example, a manufactured home used by a construction company as its on-site office would be eligible because of its usage. A manufactured home used for vacation or recreational purposes would not be eligible.

B. Eligibility of Totally Destroyed Manufactured Home. The Loss Verifier will assign a replacement cost based upon square footage when a manufactured home is totally destroyed.

C. Manufactured Home Eligibility Documentation.

The eligibility determination for a manufactured home is separate and distinct from the ownership of the underlying land.

1. Generally, we require a copy of the title to establish eligibility for a manufactured home. However, when you are not taking the damaged manufactured home as collateral and when a title is not already in the case file, you may use one of the following sources to establish eligibility:

   a. Other legal ownership documentation (e.g.; bill of sale, etc., reflecting manufactured home);

   b. Official record deed; recorded land installment contract; will; court records; etc. (reflecting manufactured home);

   c. Affidavit from county official (stating that land is improved by manufactured home);

   d. Property tax records (reflecting that land is improved by manufactured home); or,

e. Recorded contact with Mortgage Company (stating lien was against manufactured home).

f. NEMIS if ownership is based on a similar source as reflected above.

2. A manufactured home may come in multiple widths (double-wide/triple-wide) with separate titles or the equivalent for each section. In these cases, SBA will require the documentation for each section.

3. A manufactured home may not be titled because it has been permanently attached or "affixed" to the underlying land. If a manufactured home has been permanently attached to the land (and a title is not required by the state), evidence must be submitted. Always treat the manufactured home as NOT being permanently affixed to the underlying land until proven otherwise.

In most states, a statement from the tax assessor's office that the manufactured home is being "taxed" as "real property" is not sufficient evidence that the damaged manufactured home has been affixed to the land (see state specific guidance). Evidence that a manufactured home is attached or "affixed" to the underlying land includes, but is not limited to:

a. A stamped copy of the "cancelled", "surrendered", "deactivated", or "retired" Certificate of Title (or other similar document) issued from the appropriate authority (i.e.: DMV); or,

b. A recorded copy of an Affidavit of Affixture or Act of Immobilization (or other similar document) filed in the county land records.

NOTE: Eligibility for detached structures (and other repair or replacement to the underlying land and improvements) must be established separately.

3.14. LAND ELIGIBILITY

A. Land Associated with a Primary Residence or Business Operation. Damages to land and soil are eligible. Most damage of this type is caused by flooding or other forms of moving water. Soil washouts and similar damages caused by excessive rainfall and flooding are eligible provided the cause is a direct result of the specific declared disaster. However, erosion or similar damage is not eligible, because it occurs over time and is not the direct result of any single declared disaster event. We limit eligibility to the cost of restoring the land to its pre-disaster condition (for exception regarding necessary protective devices, see paragraph 3.29).

1. If you determine land damage caused by a specific disaster is eligible, you must consider the potential for recurring or continuing damage. You may approve funds to restore land damage if:

a. A shoreline or waterway boundary is stable to the point that future water damage is not likely to occur as the result of high tides, wind-driven

water, wave action, or stream flows which might reasonably be expected but which would not constitute a new disaster declaration; or

b. The applicant has used other resources to fund the installation of protective devices which will prevent expected high tides, wind-driven water or wave action, or stream flows from causing further land damage. In some cases, the cost of protective devices is eligible, as provided in paragraph 3.29.

2. Damage to land improvements is eligible unless specifically excluded or subject to the landscaping limitations described in paragraph 3.15. Some examples of eligible land improvements are paving, walkways, driveways, fences, retaining walls, seawalls, septic systems, drainage systems, culverts, and various protective devices.

B. Unimproved Land.

1. General Rule. Unimproved land is not eligible for disaster loan assistance. This includes land held for speculation, investment, or future development.

2. Exceptions to the General Rule.

a. Home Loans. The usual test of an eligible primary residence is occupancy, but an owner of a lot may be eligible for a home loan depending on the circumstances.

For example: a lot owner may actively engage in the construction of a residence at the time of the disaster loss. The residence may already be under construction; or the landowner may have already incurred expenses for plans, obtained the necessary permits, engaged a contractor to commence construction, etc. If the disaster loss is to the property where the owner was currently and actively in the process of establishing permanent residence, the property may be deemed eligible.

b. Business Loans. Ownership of unimproved land actually used in the operations of a business concern rather than land held for investment, speculation or future development purposes may be eligible. For example:

(1) A business whose established activity is buying and selling unimproved land or developing it for resale or rent (a developer) may own unimproved land. Since this activity is an integral part of normal business operations, damage to unimproved land is eligible. Usually, a business concern engaged in an activity involving ownership of unimproved land is readily distinguishable from an individual or group holding ownership of land for other purposes.

(2) A business may own an unimproved lot on which construction of a new facility is underway. Evidence of the building process

includes building permits, architect's plans, engineering studies, or other preliminary steps.

3.15. LANDSCAPING AND RECREATIONAL IMPROVEMENTS/FACILITIES

A. Definition. As used in this paragraph landscaping or recreational facilities includes the replacement of trees, shrubs, hedges, sod, private swimming pools, and private tennis courts (and items or structures associated with their use, such as a cabana used as a bath house). Docks, boathouses, and any related facilities generally used for recreational purposes are also subject to the landscaping limits.

B. Home Landscaping. Eligibility for disaster damaged landscaping is limited to the lesser of the verified loss to landscaping or $5,000. The limit does not apply to docks and other related facilities when water transportation to and from the primary residence is necessary.

C. Business Landscaping. For a business property, landscaping generally fulfills a functional need and/or contributes to the generation of business. Absent any indication in the case file that the landscaping does not fulfill a functional need or contribute to business generation, you may allow eligibility up to the amount of verified loss to landscaping.

D. The following are **not** included in the landscaping limits:

1. Detached buildings such as garages, storage sheds, guest houses, etc., which are not predominantly used for recreational purposes.

2. Fill for disaster washouts (as opposed to long-term erosion from natural causes) that must be replaced and is part of the damage to land

3. The cost of clearing downed trees, shrubs, hedges, etc. (if not done by the community, Corps of Engineers, etc., as part of the total disaster cleanup)

4. Minimal ground cover (if the most practical and feasible method for necessary ground stabilization).

3.16. HOME LOAN PERSONAL PROPERTY ELIGIBILITY

General Rule. Eligibility for personal property losses rests with the individual(s) who owned the damaged or lost property at the time of the disaster.

A. Definitions.

1. Personal Property. For disaster home loan purposes, personal property means ordinary household contents, such as furniture, appliances, clothing, etc., including eligible vehicles, which the applicants would normally take if they moved.

2. Household. For disaster loan purposes, a household is defined as all persons residing in the dwelling.

B. Owner Occupied Dwelling: Generally, the owner of the dwelling who also occupies the dwelling is eligible for the personal property located at the property, including that of other occupants who are part of the household.

C. Non-Owner Occupied: The occupant of the dwelling is generally eligible for the personal property located at the damaged property including that of other occupants who are part of the household.

1. When the applicant(s) occupy a structure which they do not own (renter) and the LV Report includes items typically associated with the owner of the dwelling (refrigerator, washer, dryer), you must establish ownership of those items by the applicant before allowing eligibility for them.

2. An applicant who is a non-occupant owner (extended family) generally does not have eligibility for personal property apart from the built-in major appliances. There are exceptions such as furnished rentals (including furnishings owned by the applicant in an extended family residence) or situations where the owner has stored property at the damaged locations. These exceptions should be addressed on a case-by-case basis.

D. Co-occupants: Co-occupants that are not considered part of the same household (roommates) retain separate eligibility for the personal property that they own. You should inquire and document the ownership of personal property that appears in the LV report.

E. Property in Storage or in Transit: Personal property located in a place other than a qualified residence or business may be eligible. Examples include storage facilities, vehicles, hotels, or a workplace. The applicant must establish that the damaged personal property was at a location within the disaster area. All limitations and definitions apply in determining eligibility.

F. Limitations. Eligibility for upgrading personal property is not permitted. Further, nonessential or atypical items (e.g., extraordinarily expensive, irreplaceable or luxury items,) may have limited eligibility based on functional or ordinary value or quantity. The Loss Verifier makes these determinations and applies appropriate limitations.

1. Functional Value. For luxury items with functional use, eligibility is limited to the cost of an ordinary item meeting the same functional purpose.

2. Items with Limited Eligibility. Items with limited eligibility include, but are not limited to:

a. Antiques;

b. Expensive or rare artwork, objects of art, or collections (baseball cards, guns);

G. Disaster-related moving and storage expenses for homeowners are eligible if incurred to protect personal property from a pending disaster event which **does** result in damage to the residence. However, if the home was not damaged as a result of the disaster, moving and storage expenses do not have eligibility.

NOTE: Moving and storage expenses are also eligible in mandatory relocation situations. Allowances above $5,000 must be substantiated and documented.

H. Ineligible Personal Property. Some personal property items are ineligible. Examples include, but are not limited to:

1. Cash, including coin collections, lottery tickets, stocks, bonds, and other negotiable instruments;

2. Recreational vehicles not included in paragraph 3.18 C;

3. Pets and other animals; and

4. Hobby items which have little or no functional value, such as stamp collections, butterfly collections, autograph collections, etc.

3.17. BUSINESS CONTENTS ELIGIBILITY

A. Definition. For disaster loan purposes, business contents means any machinery and equipment (M&E), inventory, furniture and fixtures (FF), or office equipment damaged or destroyed by the disaster.

B. General Rule. Eligibility for business contents rests with the person or legal entity who owned the damaged or lost property at the time of the disaster. (See possible exceptions in paragraph 3.1 M).

Replacement of business contents must be, to the extent possible; of the same quality and capacity as the property lost (no upgrading is permitted).

On rental properties where certain business contents (washer, dryer, refrigerator, tools, gardening equipment, clothing, etc.) may be owned by the tenant or the landlord, ownership of these items should be confirmed before allocating funds for repair/replacement.

C. Moving/Storage Expenses. Disaster-related moving and storage expenses for businesses are eligible if incurred to protect business contents from a pending disaster event which does result in damage to the business. However, if the business was not damaged as a result of the disaster, moving and storage expenses do not have eligibility.

NOTE: Moving and storage expenses are also eligible in mandatory relocation situations. Allowances above $5,000 must be substantiated and documented.

3.18. VEHICLE, PERSONAL VESSEL, AND PERSONAL AIRCRAFT ELIGIBILITY

A. Definitions.

1. Vehicle means any automobile, truck, tractor-trailer, van, mini-van, motorbike, motorcycle, or other form of motorized ground transportation.

2. Recreational Vehicle (RV) means any motor home, camper, truck, van, motorbike, motorcycle, all-terrain vehicle, or any other form of transportation used primarily for recreation or relaxation.

B. General Rule. Vehicles (without limit as to number) are eligible.

1. Eligibility can be established by obtaining a copy of the vehicle registration or ownership documentation (title, bill of sale, etc.).

2. Vehicles owned by a business applicant as inventory or vehicles held for its scrap value are eligible.

3. Leased vehicles are eligible for assistance to cover the uncompensated repair costs/deductibles.

C. Recreational Vehicles

1. A recreational vehicle, such as a boat, motor home or a camper, may be considered eligible for home loan assistance if it is the applicant's primary residence.

2. A recreational vehicle, such as a boat or a snowmobile, may be considered eligible for home loan assistance (as personal property) if it is the applicant's only method of accessing the primary residence.

3. Recreational vehicles may be considered eligible for business loan assistance (as machinery and equipment) if:

a. All expenses connected with the operation of the vehicle, including depreciation and maintenance costs, are deducted as business expenses on the FTR, or

b. The vehicle(s) qualify as inventory of a wholesale or retail business concern.

D. Personal Aircraft may be considered eligible for home loan assistance (as personal property) if it is the applicant's only method of accessing the primary residence.

3.19. COMMERCIAL VESSEL AND AIRCRAFT ELIGIBILITY

A. General Rule. Subject to the provisions of this paragraph, commercial vessels and aircraft are generally eligible under business loan criteria if they were licensed by the proper authority for commercial use at the time of the disaster.

Exception: Non-functioning vessels and aircraft held solely for display purposes, training, or as parts inventory may not require licensing.

B. Vessel. A vessel must be properly registered in the state where it is operated and utilized in a commercial activity at the time of the disaster. If the state registration does not identify the authorized use of the vessel, you must use other verification such as tax returns, receipts for sale of the catch, etc. If the vessel is documented with the U.S. Coast Guard, the authorized use is listed on the documentation papers.

C. Aircraft. An aircraft must be properly registered (licensed) with the Federal Aviation Administration (FAA), have a current and valid "Certification of Airworthiness" (issued by the FAA), and be utilized in a commercial activity at the time of the disaster. In all cases, the FAA will identify the authorized use of the aircraft.

Refer to paragraph 3.18 for eligibility determinations on noncommercial and recreational vessels and aircrafts.

3.20. ALTERNATE USE OF LOAN ELIGIBILITY

Generally, borrowers must use their disaster loan eligibility to replace the disaster damaged property in like kind. However, in some situations, we can allow the applicant to purchase property different from what was damaged as a result of the disaster. The determining factor is the reasonableness of each request. For example:

A. A tenant (renter) who suffered a substantial personal property loss is forced to vacate his/her primary residence and is unable to locate comparable rental quarters. We can allow him/her to use approvable personal property disaster loan eligibility to purchase a primary residence, if:

1. The amount of the disaster loan eligibility does not exceed the administrative limit on personal property; and

2. The cost of the residence is no more than its FMV; and

3. Any cost of the residence that exceeds disaster loan eligibility is available from one or both of the following:

   a. Injection of funds that do not have to be repaid; and/or

   b. A loan from another lender.

B. Owners of destroyed manufactured home used as their primary residence may be allowed to use their total eligibility to purchase or build a conventional home. Conversely, owners of damaged or destroyed conventional homes used as their primary residence may be allowed to use total eligibility to purchase a manufactured home (not a travel trailer) to be used as a primary residence. However, the cost of the replacement home cannot exceed its appraised value.

C. Persons with disabilities may have special needs which require even more latitude when making alternate use determinations. For example:

1. An applicant is confined to a wheelchair which was damaged or destroyed by the disaster in addition to other personal property items. The wheelchair was an older, manually operated model. In lieu of replacing certain other personal property items, we could allow the applicant to purchase a motorized wheelchair as a replacement for the manual model.

2. A member of an applicant's household is confined to a wheelchair. No personal property damaged was sustained, only RE damages. In lieu of repairing or replacing some items, we could allow the construction of wheelchair access ramps even if none previously existed.

D. Reinforcement of existing interior rooms. In lieu of repairing or replacing some items, it is permissible to reinforce an existing interior room even if it was not reinforced previously and it can be completed within the approved loan amount. Reinforcement of a structure other than interior room (e.g. garage) eligibility must be considered as an exception and will require ACDLP approval.

E. Upgrades determined to be ineligible under paragraph 3.21 remain ineligible for an alternate use of proceeds.

3.21. UPGRADING

Physical disaster loans provide funds for the repair or replacement of disaster damage to property. The objective is to restore the property to its pre-disaster condition.

A. General Rule. Any improvement beyond pre-disaster condition is upgrading, and is not eligible. However, certain exceptions are authorized on a case-by-case basis.

B. Distinguishing Upgrading from Acceptable Replacement Choices. Similar replacement satisfies the basic objective without raising concerns of upgrading or alternate uses of eligibility. Borrowers can exercise a reasonable degree of discretion in choosing how to replace the damaged or destroyed property. Upgrading usually creates a need for funds in addition to the eligible amount, or involves using excessive amounts to improve one thing by foregoing necessary repairs to another. Trade-offs of size and quality within the approved loan amount are permissible.

C. Applicant Funded Upgrades. An applicant may make upgrades using his/her own resources or borrowed funds. When an applicant proposes to use other resources, you must ensure that:

1. The applicant has the ability to repay the disaster loan and any other debt; and

2. SBA's credit position is not jeopardized.

D. Building Codes. All property repaired or acquired with disaster loan proceeds must meet applicable building codes in effect at the time the necessary permits are obtained. The cost of making improvements to meet code requirements necessary to obtain a permit or other similar approval to make repairs is eligible. Upgrades necessary to meet building codes are not eligible in cases of voluntary or involuntary relocation.

E. Minimum Residential Standards. All residential property repaired or acquired with disaster loan proceeds must meet minimum (reasonable) standards of decency, safety, and sanitation. Examples of minimal residential standards include interior sanitation (bath and toilet) facilities, heat, safe wiring, and similar concerns normally covered by codes. Normally, this is addressed by local building and occupancy codes and the costs are eligible. However, if not addressed, these judgments about minimum standards and associated costs are made by Loss Verification.

F. Protective Devices and Mitigation Measures. In some circumstances, additional protective devices and mitigation measures not in place prior to the disaster are eligible improvements (see paragraph 3.29).

3.22. INELIGIBLE PROPERTY

The following property is not eligible for disaster loan assistance.

A. Condemned Structures. Any structure, residential or commercial, condemned or refused an occupancy permit by the proper authority before the disaster occurred.

B. Secondary Homes. Secondary homes such as vacation homes, cabins, cottages, chalets, and their contents, which are used for leisure and enjoyment by the owner.

C. Any building and its contents, including a boathouse, located seaward of mean high tide or entirely in, on, or over water without a significant business justification, and which was constructed or substantially improved after February 9, 1989, is not eligible. A structure other than a building, such as a dock, or pier is eligible for SBA assistance, but is subject to the landscaping limits defined in paragraph 3.15.

D. Publicly Owned Property. Public roads, highways, bridges, municipal buildings, etc.

E. Property Not Located Within the Disaster Area. Any property not located within the declared disaster area at the time of the disaster.

F. Coastal Barrier Islands. The Coastal Barrier Resources Act of 1982 (CBRA) prohibits financial assistance for any purpose within the Coastal Barrier Resources Systems (CBRS). The only loans permitted are for personal property of transients or short term tenants (e.g., vacationers).

EXCEPTION: Otherwise Protected Areas (OPA) are properties designated by the Coastal Barrier Improvements Act of 1990 (CBIA) as otherwise protected within the CBRS. OPAs are generally comprised of lands held by a qualified organization primarily for wildlife refuge, sanctuary, recreation, or natural resource conservation purposes. The only prohibition for the use of Federal funds within OPAs is a prohibition on issuance of new Federal flood insurance policies after November 16, 1991. Properties within an OPA are generally eligible for SBA disaster assistance if the applicant is able to comply with SBA's flood insurance requirements. Flood insurance may not be waived if required by law. For loans where flood insurance is not required by law, the insurance may be waived similar to an applicant located within an NFIP (National Flood Insurance Program) "non-participating" or "sanctioned" community. If the Applicant is unable to

obtain a building permit and/or comply with the flood insurance requirement, there still may be eligibility for relocation.

G. Seasonal Occupancy on Leased Land.

1. General Rule. Lessees who are only permitted to occupy their dwellings on a seasonal or recreational basis are ineligible. This also applies to manufactured home situated on leased land and vessels moored in a leased slip where the lease does not permit occupancy as a full-time primary residence.

2. An exception occurs when the lessor acknowledges in writing that:

   a. The lessee was not in compliance with the lease provision for only seasonal or recreational occupancy prior to the disaster; and

   b. The lessor had chosen not to enforce the lease restriction; and

   c. The lessee is and will be permitted to continue to occupy the dwelling, manufactured home, or vessel as a permanent, year round primary residence.

3. Approval under this exception requires:

   a. Disaster-specific authorization from AA/DA.

   b. Final action by the ACDAP or higher.

H. Agricultural Enterprises.

1. Businesses primarily engaged in agriculture are not eligible unless they also have a non-agricultural, separable component. Disaster loan proceeds may not be used to repair or replace physical agricultural losses (see paragraph 3.4 G).

2. A business which is primarily engaged in an eligible activity and secondarily engaged in an agricultural enterprise is prohibited from using disaster loan proceeds to repair/replace the ineligible physical agricultural losses.

3. As used in (1) and (2) above, the business includes the applicant business and its affiliates.

I. Nurseries. Nursery farms are not eligible (see paragraph 3.1 O. for physical loans and paragraph 3.30 E. for EIDL).

J. Property Located in an SFHA within a "Nonparticipating" Community or a Community "Under Sanction". Small Business Administration funds may not be used to repair or replace real or personal property located in an SFHA (Special Flood Hazard Area) within a non-participating community or a community under sanction (See exception in paragraph 7.14 F.). In these communities, Federal flood insurance is unavailable and borrowers cannot purchase the statutorily required flood insurance. However, applicants who relocate to a participating community will be able to meet the statutory requirement and are eligible. (See paragraph 7.14).

K. Property Covered by Notice of Disqualification.

1. If a notice of disqualification of flood-prone property was previously filed of public record, the property is ineligible. However, the CD/PDC may remove the ineligibility upon notice from the Flood Insurance and Mitigation Administration (FIMA) of the following:

a. Adequate flood control measures have been completed and the property is no longer flood-prone; or

b. Property improvements on the land were constructed after the community started participating in the FIMA flood insurance program and full coverage under the Regular Program of flood insurance may be purchased.

2. If the ineligibility is removed, the Assistant Center Director Accounts (ACDA) may issue to the present property owner an instrument canceling the original recorded notice of disqualification. This instrument becomes effective when recorded in the local land records office where the recorded notice of disqualification was filed.

3. Notices of disqualification covering property located within other identified hazard areas may be similarly treated (see paragraph 7.14 F).

3.23. CONDOMINIUM ELIGIBILITY (INDIVIDUAL UNITS AND CONDOMINIUM ASSOCIATIONS)

Condominiums present unique issues which require different methods for establishing property eligibility and special provisions and considerations during processing.

A. Distinguishing Responsibilities of Individual Unit Owners from the Association. Both unit and association applications require establishing repair responsibility and loan eligibility. SBA makes an eligibility determination on common damage issues based on the governing documents and state requirements regarding the ownership of the elements of a condominium regime and the allocation of responsibilities to repair those elements in the event of a casualty. Responsibility for determinations is with Supervisory Attorney Advisor as delegated by ACDA.

1. Generally, SBA will adhere to the provisions in the condominium association's governing documents, applicable state statutes and federal laws. These documents must be reviewed by an Attorney Advisor to determine who has repair responsibility and who may contribute financially to that repair.

a. Association Declines Unit Repair Responsibility. Where SBA finds the Association responsible for all or partial unit repairs under the governing documents or state law, the association may, in some cases, be unable to meet the obligation. In such cases, you must fully document the file to show that the association is unwilling or unable to make the repairs to the individual unit(s). If the unit owner meets all other eligibility requirements (ownership, primary residence, rental, etc.,) the eligibility

for the repairs may be deemed that of the owner. Duplication of benefits from the owner's insurance as well as the association's insurance must be carefully reviewed. The ACDA must be consulted in these situations.

2. It will then be the Loan Officer's responsibility to allocate the appropriate repair elements from the Loss Verification Report. This allocation should also be based on the eligibility determination completed by the Accounts Department's review of all necessary documents, including but not limited to:

   a. The association's Conditions, Covenants, and Restrictions (CC&Rs),

   b. Articles of Association,

   c. Applicable State or local laws to ascertain the rights and responsibilities of the condominium association and individual unit owners.

3.24. CONDOMINIUM UNIT OWNERS

A. Individual unit owners are eligible for the damages to their own units, subject to the association's governing documents and state law. The loan type (home or business) depends on whether the unit is owner-occupied as a primary residence or whether it is used for business purposes (such as a rental). Unit owners may be eligible for refinancing subject to the provisions in paragraph 3.27. Units classified as secondary homes are ineligible.

NOTE: Because of the potential overlap of the individual unit owners' damage with that of the association-owned portions of the property (e.g., interior/exterior wall, interior ceiling/exterior roof), you should have an understanding of how the entire condominium complex will be repaired or replaced and who is responsible for repairs. This is defined in the association's governing documents and state law.

B. General Eligibility Rule.

The borrower may have eligibility for personal property, unit repairs, and a share of any assessment for repairs to common areas. When we process loans to individual unit owners before the association determines how it will fund repairs to the common area, we will fund the borrower's personal property and unit repairs.

1. When the loss verification report indicates the individual units can be made habitable with only minor interior repairs, proceed with processing these individual unit owner loans for personal property and eligible unit repairs.

2. If major interior and exterior repairs are necessary and individual units cannot be made habitable without the association being involved in the rehabilitation process, individual unit owners generally cannot be considered for anything other than personal property eligibility until the association meets and agrees on a formal course of action.

3. Eligibility for Assessment. If the association chooses to pass a one- time assessment to unit owners to make common area repairs, the unit owners are eligible for their pro-rata shares of the amount of the assessment as well as for the interior damages to their individual units and personal property (PP), subject to program lending limits.

   a. To validate the assessment:

      (1) The unit owner must provide a copy of the Assessment Resolution to substantiate that amount of the assessment to cover the disaster-related damage to the common areas, and/or

      (2) The PDC Loss Verification Department, will determine if the documentation is sufficient to include in the verified loss or if an on-site inspection is necessary.

   b. When the association has a total project cost that is above the administrative limits and it is not being addressed through other sources, the association may choose to pass a one-time assessment to address their shortfall. Individual unit owners would be eligible to borrow the amount of the assessment in addition to unit damage and personal property.

      Example: The association has a total project cost of $4,000,000; they have received $1,000,000 in insurance recoveries and have been approved for a $2,000,000 SBA loan. This leaves a project shortfall of $1,000,000 and in order to cover the shortfall the association passes a onetime assessment to the 275 unit owners for $3,636. Each of the unit owners would be eligible for the $3,636 assessment in addition to their individual unit losses not to exceed the administrative limit.

4. Association Votes Not to Rebuild. When an association has suffered substantial damage and has voted not to rebuild, the unit owners may be forced to relocate. In such cases, SBA considers this relocation to be mandatory.

   a. The unit owner(s) is eligible for the replacement value of their personal property, and the lesser of the pre-disaster market value or the cost to repair the unit and the proportionate share of common area repair, as determined by the Loss Verifier, minus any insurance recovery received.

   b. As the unit owner(s) also has a proportionate share of the association's master insurance policy, you must address the potential for duplication of benefits (DOB) by requiring an assignment of the borrower's interest under the Homeowners Association's Master Insurance Policy executed jointly by the borrower and the Association.

   c. As the unit owner has a proportionate share of the condominium's common assets, you must address the potential for DOB from the sale of the condominium complex. SBA will require an assignment of the borrower's interest in any proceeds of the sale of the damaged property.

NOTE: Notice of Disqualification is not required for a mandatory relocation when an HOA votes not to rebuild.

C. Collateral Requirements. Individual unit owners are subject to the same collateral requirements as any other physical disaster loan recipient.

D. Special Provision for Calculating Eligibility for Unit Owner's Refinancing. Individual unit owners are eligible for refinancing. For the substantial damage calculation, the market value or replacement value of an individual condominium unit is not limited to the value of the internal space of the particular unit. It includes the proportional share of the condominium's common assets, such as buildings, amenities, etc. This calculation must reflect the individual unit owner's proportional share of any net recovery under the condominium association's master insurance policy (see paragraph 3.27 H).

E. Time-Share Eligibility: Individual timeshare unit owners are not eligible for SBA disaster assistance. The HOA/business entity governing the time-shared property is eligible.

3.25. ASSOCIATION APPLICATIONS

A. The condominium association is generally eligible to apply for damages to the areas the association is responsible to repair (such as hallways, parking areas, sidewalks, driveways, grounds, pools, etc.), as described in the association's governing documents and state law.

B. Applications from condominium associations are classified as business loans (usually as non-profit organizations), unless specified otherwise by their articles of association. The following documentation may be necessary to process an association's application:

1. A complete copy of the association's governing documents (Declaration, CC&Rs and/or Master Deed, etc. ;

2. A complete copy of the Bylaws and/or articles of incorporation (if association is incorporated);

3. A complete list of current officers/directors of the association;

4. A copy of the Federal tax returns (if required) or annual reports and operating budgets for the past three years;

5. A copy of the master insurance policy; and

6. A copy of any special assessment for disaster repairs.

7. A complete list of names, addresses, and telephone numbers of unit owners.

C. Generally, you should establish a target payment based on a minimum of $25 per unit owner. Any amount less than $25 requires proper justification.

D. Collateral Requirements. Generally, you secure loans to associations by taking both of the following:

1. A mortgage or deed of trust on real property separately deeded (such as office space, public areas or recreational facility) to and owned by the association, as permitted by the governing documents and state law; and

2. An assignment of a special assessment passed by the association in accordance with its Bylaws, unless prohibited by state law. (The association must assess each unit owner in an amount sufficient to provide loan repayment.)

NOTE: If the real estate collateral is sufficient to secure our loan, an assignment of special assessment is not necessary. If the special assessment is not taken as collateral, you should include a condition on the loan requiring the association to provide proof of passage of a dedicated special assessment sufficient in term and amount to pay the loan according to its terms.

3.26. OTHER ASSOCIATION ELIGIBILITY

Other associations include, but are not limited to, Planned Unit Developments (PUDs), Cooperative Associations (Co-ops), Road Associations, Water Associations, etc. ACDA should review applications from other types of associations to assist you in determining who the eligible parties are.

A. Basic Eligibility Considerations. Eligibility rests with those who owned or had a responsibility to repair the damaged property at the time of the disaster.

1. Formal (legal) Association Exists. If a legal entity owns the damaged property, the entity is the eligible applicant (e.g., The Happy Valley Water Well Association, Inc.). You process the application in the same manner as a condominium association.

2. Formal (legal) Association Does Not Exist. Property owners who share legal responsibility for repair with one or more other property owners, but had not formed an association at the time of the disaster, may apply as individuals; or they may elect to form an association in accordance with State law and apply as an association, even though the legal formalities are not yet complete.

a. For applications as individuals:

(1) Use a home loan application when the shared responsibility for repair is related to the applicant's primary residence;

(2) Use a business loan application when the shared responsibility for repair is related to the applicant's business or rental property;

(3) Prior to approval, all applicants with common responsibility must have fixed the liability proportionally among those legally responsible for the cost of the repairs, by contract or some other legally enforceable method; and

(4) A list of names and addresses of all who share in the responsibility for repairs should accompany the application.

(5) If the total project costs to complete all repairs exceed the SBA loan amount a prior injection condition should be added to the loan to cover the shortfall.

b. For applications as an association formed after the disaster:

(1) The newly created association must complete its legal formalities prior to loan approval; and

(2) A list of names and addresses of all members must accompany the application.

B. Additional Considerations for Other Association eligibility. SBA eligibility and the handling of applications to repair common roads and other private infrastructure will depend on the disaster declaration.

1. In Agency Declarations SBA is generally the only form of assistance available to repair common road damage.

2. In Presidential Declarations applicants may also qualify for additional assistance through FEMA. You should process the file to a decision based on the information available at the time of processing even if eligibility under FEMA's program has not yet been determined.

3.27. REFINANCING

When a property is substantially damaged and insurance recoveries are final, refinancing of recorded liens can make the additional disaster debt more affordable.

A. General Rule. All or part of all loans secured by recorded liens on homes or business concerns substantially damaged by the disaster may be refinanced with additional disaster loan proceeds.

1. Home Loans. We can only consider the eligible RE (primary residence of the applicant, including manufactured home, individual condominium units, and houseboats) for refinancing.

2. Business Loans. We can only consider the eligible RE and/or M&E which is essential to the operation of the business for refinancing. Property used by the applicant business in a manner which is analogous to M&E is treated similarly for this purpose (e.g., furniture, carpets, drapes, linens, appliances, etc., in a hotel or motel).

3. Non-profit Organizations. Non-profit organizations are not eligible for refinancing because they do not meet the definition of a business concern as defined in 13 CFR §121.105. The Small Business Act limits eligibility for refinancing to homes and businesses.

B. Definitions.

1. Uncompensated Damage means SBA's verified physical loss to the property in question (regardless of legislative or administrative limits) as determined by the Loss Verifier less any insurance or other recoveries and excluding any funds due to contractor malfeasance.

2. Fair Market Value (FMV) is based upon local market conditions and is what the property would sell for one day before the disaster occurred.

3. Replacement Cost means the cost to completely reconstruct the damaged structure and restore the entire property to its pre-disaster condition.

4. Substantially Damaged means uninsured or otherwise uncompensated damage of either:

a. For homes: uninsured or uncompensated damage, which at the time of the disaster, is either:

(1) 40 percent or more of the home's pre-disaster fair market value (FMV) or replacement cost including the value of any land, whichever is less; or

(2) 50 percent or more of the structure's pre-disaster fair market value or replacement cost, (excluding the value of any land) whichever is less.

b. For businesses: uninsured or uncompensated damage which, at the time of the disaster, is either:

(1) 40 percent or more of the aggregate value (lesser of market value or replacement cost at the time of the disaster) of the damaged real property (including the value of any land) and damaged machinery and equipment; or

(2) 50 percent or more of the aggregate value (lesser of market value or replacement cost at the time of the disaster) of the damaged real property (excluding the value of any land) and damaged machinery and equipment.

c. While it may be helpful in verifying the losses, loss documentation by local authorities is not required by SBA to make the substantial damage determination.

C. Applicant Eligibility Requirements for Refinancing. Applicants must meet three requirements (by statute) to be eligible for refinancing consideration:

1. The applicant's property must be substantially damaged;

2. The applicant must not have Credit Available Elsewhere; and

3. The applicant must repair or replace the damaged property.

D. Liens Eligible for Refinancing. Liens subject to refinancing must have existed prior to the disaster. The actual position (i.e., first, second, etc.) and original purpose of an otherwise eligible lien has no effect on refinancing eligibility.

1. For real property in both home and business loans, only debts secured by a recorded mortgage, deed of trust, or similar instrument are eligible.

2. For M&E in business loans, only debts secured by a recorded security instrument are eligible. For blanket liens where you cannot distinguish which portion of the lien relates to M&E, refinancing may be offered if all other relevant criteria are met.

E. Liens Not Eligible for Refinancing.

1. Any mortgage or other lien owned by a Federal, State, or local government agency.

NOTE: Liens are eligible when the private debt is insured or guaranteed by a Federal agency (provided the private lender owns the debt and it has not been repurchased or otherwise assumed by the Federal agency). We do not consider the Federal Deposit Insurance Corporation (FDIC) a Federal agency for this purpose. An SBA guaranteed debt is eligible for refinancing as long as the debt has not been repurchased or is not owned by SBA. In addition, state housing finance authorities which, pursuant to Federal law, fund such mortgages or liens by issuing Federal tax exempt mortgage bonds for the purpose of encouraging home ownership for low and moderate income families, are not considered a state agency for this purpose.

2. Liens due to unpaid taxes, mechanics liens, or similar attachments.

3. Liens on business inventory (payments on liens on inventory may be appropriately addressed with EIDL assistance).

4. Liens on a property in states where ODA has deemed it could not be fully compliant with state laws (e.g. Texas).

F. Authorized Refinancing.

1. For home loans, you can authorize refinancing subject to the following conditions:

a. If the disaster loan without refinancing will amortize in 15 years or less, the Applicant is not eligible for refinancing;

b. If the disaster loan will amortize in more than 15 years, you may offer refinancing. The payment on the disaster loan, which includes refinancing, should be at least the same as the existing payment being refinanced. If the resulting maturity is less than 15 years, the applicant remains eligible for refinancing.

2. For business loans, you can authorize refinancing if, based upon a reasonable payment amount which affords the applicant some flexibility and avoids hardship, the amortization of the loan amount would require more than 15 years. You cannot authorize refinancing when the amortization of the loan would require 15 years or less.

G. Interim/Bridge Loans. We do not consider repayment of these loans refinancing, but they can be determined to be eligible under standard eligibility when the proceeds were used for eligible disaster related needs.

H. Amounts and Dollar Limitations of Refinancing. By statute, refinancing eligibility must not exceed:

1. Homes. The lesser of the amount owing at the time of the disaster on the lien(s) to be refinanced (payoff) plus any prepayment penalty, or the amount of the eligible physical loss to the RE.

2. Businesses. The lesser of the amount owing at the time of the disaster on the lien(s) to be refinanced (payoff) plus any prepayment penalty, or the amount of the eligible physical loss to the RE and M&E.

I. Calculation of Substantial Damage. Your initial calculation is based upon figures in the Loss Verification Report. You may need to adjust these figures for insurance or other recoveries. Adjustments may also be necessary because the Loss Verification Report may not reflect the fair market values of all of the applicant's property, which may include undamaged property as well.

1. Components of Final Calculation (Homes). You must not include any property adjacent to the damaged primary residence in the calculation if the other property has a separate deed.

2. Business Loans. The determination of substantial damage pertains to the applicant business, not just to the damaged property. You must consider each business applicant as a single entity. Do not aggregate with its affiliates for this purpose.

a. Exception for Sole Proprietors (Including Multiple Rental Properties). If one of the ventures or locations sustained substantial damage, but the others suffered little or no damage, you can establish eligibility for refinancing for the damaged ventures or locations if any of the following conditions apply:

(1) The individual property is listed on a single mortgage or deed of trust and sustained the percentage of damage necessary to establish eligibility individually; or

(2) If the aggregate damage to multiple properties satisfies the percentage requirement for refinancing for all the properties if they were taken as a group, then you should take them as a group. This could make an individual property (on a single mortgage or deed of trust) eligible for refinancing even though the property, standing alone, did not suffer sufficient damage; or

(3) If a single mortgage or deed of trust covers more than one of the properties, you must consider the damaged properties covered by the mortgage or deed of trust as a group, rather than individually. The damage for the group must meet the required percentage; or

(4) When the business premises are within the home of the sole proprietor, you must aggregate the business and home damage to determine if the required percentage is met.

b. Partnerships and Corporations are distinct legal entities. When determining substantial damage, do not aggregate property owned by the principals either of the entity or any of its affiliates. However, you must aggregate all property(s) (real estate and M&E, whether damaged or not) owned by the applicant partnership or corporation to arrive at the denominator. You include only the uninsured damage to the property in the numerator.

c. Machinery and Equipment Damage Only. If the uninsured damage is only to M&E, the calculation must include the value of all business real estate owned.

3. Effect of Code Requirements on Substantial Damage Calculation.

a. General Rule. If the applicant is repairing the damaged property, you should include the cost of code-required upgrading as part of the damage when you calculate eligibility for refinancing; that is, the substantial damage calculation would include the eligible physical loss to the RE plus the cost to comply with code requirements. This provision applies to all code-required upgrades, regardless of what caused the damage. If the applicant is relocating, you do not include the cost of the code requirements as part of the damage when you calculate refinancing eligibility.

b. Exception to the General Rule. The ACDAP or higher must approve this exception. Use the higher of the costs (actual loss) less insurance and other recoveries plus code-required upgrades as compared to replacement cost (relocation property) less insurance and any other recoveries in the numerator of the substantial damage calculation if:

(1) The general rule above would result in reduced or no eligibility for refinancing; and

(2) The loan request would be declined for lack of repayment ability; and

(3) The applicant plans to relocate from an SFHA to a non- SFHA instead of rebuilding at the damaged site.

4. Insurance recoveries must be deducted in determining uncompensated damage. Therefore, you cannot offer refinancing until an applicant's insurance recovery is finalized.

5. Other recoveries (e.g., CDBG grants) must be deducted in determining uncompensated damage only if the refinancing funds have not been fully disbursed. If the refinancing portion of the SBA disaster loan has been fully disbursed, SBA is not obligated to recalculate the homeowner's refinancing eligibility.

6. Applicants Request (or Need) for Reduced Physical Loan Amount.

a. If the uncompensated loss meets or exceeds the substantial damage criteria, but the applicant, through other means, completes the repairs for less than that amount, you must use the uncompensated loss as the basis for calculating substantial damage. This includes situations where the applicant does the actual work or acts as the general contractor, etc.

(1) If the difference between the Loss Verification Report and the actual cost is large, or cannot reasonably be explained, you should consult with Loss Verification about the discrepancy.

(2) If we determine the verification to be inaccurate such that the loss does not meet the substantial damage criteria, and the refinancing funds are not disbursed, the ACDA must review the case to determine further action.

b. When the applicant elects not to repair or replace all the damage:

(1) If we know this at the outset (not considering its impact on collateral at this time), there may be no eligibility for refinancing because the damage to be repaired may be less than substantial. The law requires that the property must be substantially damaged and repaired or replaced.

(2) If we do not know this in advance, the mandatory paragraphs in the LAA requiring the return of refinancing proceeds take effect.

NOTE: Voluntary Payoff of Mortgages. If an applicant qualifies for refinancing under this paragraph but used insurance proceeds to voluntarily pay off an eligible mortgage, the applicant is eligible for reimbursement of the funds used to pay off the mortgage up to the amount of the eligible physical loss. The property must be substantially damaged after deducting all insurance funds, including the amount used to pay off the mortgage, and must meet all other refinance eligibility.

J. Contact with Prior Lien Holders. When considering refinancing, you should request from each lien holder the payment history, payoff amount and collateral used to secure the loan being refinanced. You should initially attempt to obtain the information by phone. If phone contact is not possible or if the lien holder will not respond, send SBA Form 143 (Credit Inquiry Letter) to the lender and proceed with refinancing by using the CBR and other financial information in the case file.

K. Prepayment Penalties. A prior lien holder may have a legal right to enforce a prepayment penalty if we refinance all or any part of the existing lien(s).

1. The prepayment penalty can be included in the refinancing eligibility or you can consider this as an indirect cost (see paragraph 3.12 B 2).

L. Repayment Terms.

1. When we fully refinance an existing lien, the SBA payment generally should be at least equal to the amount of the principal and interest portion of the payment to the existing lien holder.

2. You must justify any exceptions in the case file.

M. Return of Refinancing Proceeds. When refinancing funds are included in a disaster loan, if the borrower fails or refuses to repair or replace the damaged property, SBA will demand return of the proceeds for refinancing.

N. Authority to Approve Refinancing. Generally, the authority to approve refinancing accompanies the delegated authority to approve a loan. However, if the amount recommended for refinancing exceeds the amount recommended for the real estate physical loan only the ACDAP or higher can approve the loan. (See subparagraph H above). The LO's justification should address such issues as additional repayment or collateral risk, how the applicant can address the physical loss in excess of the loan funds for that purpose, and the potential for abuse of the refinancing eligibility.

3.28. RELOCATION

Relocation occurs anytime the applicant either elects to or is required to move from the damaged home or business to any other location. In states which have walk-away statutes, you must advise the applicant of potential eligibility limits due to the walk- away policy.

A. General Rule. By statute, we cannot provide assistance to any applicant (home or business) who wishes to relocate voluntarily outside the business area where the disaster occurred. However, we may provide assistance if a relocation is other than voluntary. Rebuilding the damaged structure at another location on the same parcel of real estate is not considered relocation unless the damaged structure was located in an SFHA and is being rebuilt in a non SFHA on the same parcel.

B. Types of Relocations. Moving next door, across the street, or across the country are all relocations. However, the reason(s) for the move determines the type of relocation, and corresponding limitations and restrictions on eligibility.

1. Mandatory Relocation. Relocation is mandatory when an applicant/borrower has RE damage and:

a. Is unable to repair or rebuild because appropriate governmental authorities will not permit repair or rebuilding. This usually occurs when the applicant is denied a building permit, occupancy permit, or other required permission from local, county or State officials; or

b. The damaged site was in an SFHA and sustained substantial damage as defined by the NFIP and the relocation property is not in an SFHA. NFIP defines substantial damage as "damage of any origin sustained by a

structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damaged occurred." For the purposes of establishing relocation eligibility, SBA will perform the calculation based on the loss amount and property value as established by the Loss Verifier. We will *not* require documentation from local authorities that the NFIP definition has been met; or

c. Is unable to repair or rebuild because the condominium association has voted not to rebuild.

2. Involuntary Relocation. Relocation is involuntary when the applicant/borrower is permitted to repair or rebuild, but elects to move because of "special or unusual circumstances" or "uncontrollable or compelling reasons" specifically cited in SBA's regulations (see subparagraph D and E below).

3. Voluntary Relocation. Relocation is voluntary when the applicant/borrower is permitted to repair or rebuild but instead elects to move and none of the "special or unusual circumstances" or "uncontrollable or compelling reasons" listed in subparagraphs D and E below apply. SBA can only fund a voluntary relocation if the applicant moves within the confines of the business area.

C. Business area means the municipality that provides general governmental services to the damaged business or home. If not located within a municipality that provides general governmental services, then business area means the county or equivalent political entity in which the damaged business or home is located. In unusual cases, where the municipality is comprised of more than one county (e.g., New York City), the business area is the county in which the borrower is located. SBA does not restrict the business area to divisions smaller than a city or town (i.e., school, hospital, other special purpose districts, election wards and precincts, etc.).

D. Special or Unusual Circumstances. When a homeowner or renter must relocate due to special or unusual circumstances, the relocation is involuntary. These circumstances include, but are not limited to:

1. Demonstrable risk that the business area will suffer future disasters;

2. Change in employment status, such as employment transfers, loss of job, relocation for a new job, lack of adequate job opportunities in the business area, or implementation of scheduled retirement plans within 18 months after the occurrence of the disaster;

3. Medical reasons; or

4. Special family considerations which necessitate a move outside of the business area.

E. Uncontrollable or Compelling Reasons. When a business must relocate due to uncontrollable or compelling reasons, the relocation is involuntary. These reasons include, but are not limited to:

1. Elimination or substantial decrease in the market for the business product or service as a consequence of the disaster;
2. Change in the demographics of the business area within 18 months prior to the disaster, or as a result of the disaster, which makes it uneconomical to continue the business in the business area;

3. Substantial change in business costs as a result of the disaster which makes the continuation of the business in the business area not economically viable;

4. Location of the business in a hazardous area such as an SFHA or an earthquake prone area;

5. Change in the public infrastructure in the business area within 18 months prior to or as a result of the disaster that would result in substantially increased expenses for the business in the business area;

6. Implementation of decisions adopted and partially implemented within 18 months prior to the disaster to move the business out of the business area for good and sufficient business or personal reasons; or

7. Other factors which undermine the economic viability of the business area.

F. Eligibility Provisions, Amounts, and Limitations.

1. Mandatory Relocation. When relocation is mandatory, we consider the real property a total loss, regardless of the actual extent of physical damage.

Mandatory relocation provisions do not apply to tenants and renters, except in cases of leasehold or similar improvements (e.g., owned manufactured housing on leased land).

a. The applicant/borrower may relocate anywhere in the United States (including its territories and possessions and Puerto Rico). No reasons need be cited; however, the applicant/borrower must meet the criteria outlined in paragraph 3.28 B 1.

b. The applicant/borrower may not relocate to an SFHA if the damaged site was in an SFHA and sustained substantial damage as defined by subparagraph B 1 b of this paragraph.

c. The amount of eligibility for the damaged real property and improvements is the replacement cost of the damaged property subject to these provisions:

(1) The applicant/borrower may choose to move the damaged structure to the relocation site and repair the structure, provided the loan does not exceed the cost to build a comparable replacement structure at the relocation site;

(2) The applicant/borrower may choose to purchase a replacement structure, provided that it is equivalent and the loan is not used for upgrading;

(3) If the damaged property is a rental or investment property which has an unusually low pre-disaster FMV because of its physical condition (e.g., deferred maintenance), location, or similar market reasons, the cost to replace the structure cannot exceed its pre-disaster FMV (see paragraph 3.12 C.);

(4) If the damaged property is a condominium where the homeowners association has voted not to rebuild, the amount of eligibility for the damaged real property and improvements is not limited to just the market value or replacement value of the condominium unit itself but must also include the unit owner's proportionate share of the condominium association's common assets, such as buildings, amenities, etc.;

(5) Any code compliance costs which would have been required to repair or rebuild at the damaged property site may not be transferred to the relocation site eligibility;

(6) Additional costs to meet building codes at the relocation site are eligible;

(7) The applicant/borrower is also eligible for reasonable moving and storage costs. The limit for moving expense for contents of the damaged structure is $5,000 for home business loan borrowers. Allowances above these amounts must be substantiated and documented; and

(8) Disaster mitigation assistance is not eligible.

2. Involuntary Relocation. When relocation is involuntary, there is no effect on disaster loan eligibility based upon where the applicant elects to relocate. Other limitations apply, as follows.

a. The applicant/borrower may relocate anywhere in the United States, including its territories, possessions, and Puerto Rico. Involuntary relocation provisions also apply to tenants and renters.

b. The amount of loan eligibility is subject to these provisions:

(1) The physical loss eligibility for RE is limited to the cost of repairing the damage to the real property at the disaster site;

(2) The physical loss eligibility for tenants with eligible LHI is limited to the cost of repairing the LHI at the disaster damaged site;

(3) Any code compliance costs which would have been required to repair or rebuild at the damaged property site are not "transportable" to the relocation site;

(4) Any costs of required code compliance at the relocation site may be eligible as an alternate use of proceeds;

(5) Disaster mitigation assistance is not eligible; and

(6) Moving expenses are not eligible as part of a physical loss loan.

3. Voluntary Relocation Within the Business Area. The amount of loan eligibility is subject to the same restrictions as involuntary relocations.

G. The Relocation Plan. If you recommend approval for relocation, the case file must state how the applicant plans to replace the damaged property.

1. A relocation plan should address the following:

a. A detailed explanation of why the applicant either desires to or must relocate;

b. If the relocation property is known, a copy of the purchase contract, agreement for sale, etc., and a complete legal description;

c. A complete cost breakdown and financing proposal for the property to be purchased, built, or leased;

d. If the relocation property is unknown (not selected), details of the applicants' intentions as to what type of property they will be looking for, and where;

e. What plans, if any, the applicant has for the disaster damaged property;

f. How the applicant will handle any remaining financial obligations on the damaged property; and

g. A flood zone determination on the relocation property.

2. Business relocation plans should also address:

a. If the applicant has adequate funds to sustain the business and its owners until relocation property is selected, built, or leased;

b. If the applicant performed adequate market research on the prospective business to be purchased; and

c. If business operations are changing, whether the owner has the necessary managerial ability and industry knowledge.

3. In addition to the requirements stated above, if the applicant is a unit owner in an association that has voted not to rebuild, they will need to submit the following:

a. A complete copy of the Association's CC&R's.

b. A copy of the Association's Master Insurance Policy.

c. A copy of the documentation from the Association stating they will not rebuild and identifying the applicant's/borrower's proportionate share of the total common area.

d. If available, documentation stating the pre-disaster value of the land improvements for the Association's common areas.

4. If the applicant is uncertain about relocation (other than mandatory situations), you must process the application under the assumption the applicant will repair the damaged property.

5. When you discuss relocations, you should strongly urge applicants to make any purchase agreement, contract for sale, or new lease subject to written SBA approval.

H. Refinancing: Authorized refinancing may be available to applicants who relocate (see paragraph 3.27).

I. Collateral Requirements and Disaster Damaged Property. The damaged property from which the applicant is relocating may have significant value.

1. Collateral Requirements. Generally, we require both the damaged property and the relocation property as collateral, unless the damaged property has already been sold. Any exception to this general rule must be justified in the case file. If the damaged property has outstanding liens, we will permit the lien holder to file a lien in the same amount on the relocation property, provided they release their lien on the damaged property. In these cases we will take a subordinate lien on the relocation property and a first lien on the damaged property. Otherwise, we will take a first lien on the relocation property and a junior lien on the damaged property.

NOTE: We will not require a title search on the disaster damaged property when you determine that the relocation property is sufficient to fully secure the loan. We will require a title policy only when the use of proceeds are designated for the purchase of the property.

2. Disaster Damaged Property. We have an interest in the damaged property because the property may have value as a source of additional funds for the disaster survivor to recover financially from the disaster, and the damaged property may be ineligible for future disaster assistance.

a. Damaged property used as collateral should have a "due on sale" clause.

b. If the damaged property has been sold, the portion of the net sales proceeds that duplicates the disaster loan will generally be applied as a DOB.

c. Relocation may make the damaged property ineligible for any future disaster loan assistance. For example, a damaged property located in a SFHA from which the applicant relocates is ineligible for future assistance when:

(1) The relocation was mandatory; or

(2) The property is located in a Community Under Sanction or in a Non-participating Community.

d. When we determine property to be ineligible for any future assistance, the LAA must include a condition requiring the borrower to place on the title a notice that the property is ineligible for any future disaster loan assistance for damage caused by any type of disaster.

EXCEPTION: Co-ops. Unit owners' interest in Co-op associations should be presumed to not include a legal interest in the underlying real property, absent evidence in the case file to the contrary. Thus, a co-op unit owner generally will not be required to meet the Notice of Disqualification requirement stated above.

3.29. PROTECTIVE DEVICES AND MITIGATION MEASURES

A. General Rule. For each specific peril, measures or devices may exist to provide protection to real estate structures and contents (personal property and business contents). Generally SBA can loan funds for the repair or replacement of these measures, allow funds as a code requirement, or fund optional improvements for these purposes. Measures to protect non-essential structures or decorative features are not eligible. Protective devices or mitigation measures in place before the disaster are eligible as a verified loss. If not in place before the disaster, eligibility is based on the need for adding such a device or measure. Examples of these devices or measures include, but are not limited to:

1. Retaining walls;

2. Sea walls;

3. Grading and contouring land;

4. Elevating flood prone structures;

5. Relocating utilities; and

6. Retrofitting structures.

B. Pre-existing Protective Devices or Measures. If the devices or measures existed prior to the disaster, the full cost to repair or restore to pre-disaster condition is an eligible verified loss, except when the devices or measures were installed outside of a home or other building. In those instances, only the cost of repairing or restoring the device to

functional pre-disaster condition is eligible. Costs of repairs related to cosmetic, recreational, or nonfunctional embellishments are subject to the landscaping limits.

1. If existing protective measures and devices could also qualify as mitigation under sub-paragraph E of this section, and the full verified loss cannot be funded due to the administrative limit, the funds may be included under mitigation eligibility.

C. Code Requirements for Protective Devices or Mitigation Measures. If the devices or measures did not exist prior to the disaster, the full cost of a device or measure to meet code requirements is eligible. You may include code required upgrades which could also qualify as mitigation and which cannot be funded due to the administrative limit under mitigation eligibility.

D. Necessity of Protective Devices or Mitigation Measures to Make Disaster Repairs. If the devices or measures did not exist prior to the disaster, but are absolutely necessary to repair or restore the property, the full cost is eligible if:

1. It is the only feasible or practical method of repairing or restoring disaster damage to land, land improvements, or structures; and

2. It prevents immediate and continuing danger of serious damages to structures (not land and land improvements, or non-essential structures of the type commonly subject to the landscape limit); and

3. We receive written evidence from a professional third-party (such as an engineer's report) which clearly establishes the necessity for the device or measure (opinions from real estate agents, insurance adjusters and the like should not be considered); and

4. You document the necessity in the case file.

E. Post Disaster Mitigation Measures. The statute provides eligibility for the costs of these devices or measures subject to the following:

1. Measures designed to protect real estate, leasehold improvements; personal property or business contents are eligible. Eligibility is exclusive to the damaged property and does not transfer if the applicant relocates.

NOTE: The loan amount for the disaster damaged property must include funds for physical losses (RE and/or Contents) for the property mitigation is being loaned. We cannot approve a loan for post-disaster mitigation only.

2. The maximum eligible cost is 20 percent of the verified physical loss (before any duplicated benefits are deducted), with a maximum of $200,000 for home loans *only*.

a. This additional mitigation amount up to 20 percent is not subject to the $200,000 administrative limit for real property damage for home loans. The 20 percent is based on the full amount of the loss for both RE and PP. Thus, the maximum possible amount of a disaster home loan is

$640,000 ($200,000 for RE damage, $40,000 for personal property damage, $200,000 for mitigation, and $200,000 for refinancing).

b. For business loans, the 20 percent is subject to the $2,000,000 legislative limit.

c. For refinancing purposes, you do not include the additional amount in calculating substantial damage or when determining the eligible refinancing amount.

d. You may include code required upgrades which could also qualify as mitigation and which cannot be funded due to the administrative limit under mitigation eligibility.

e. For home loan mitigation amounts greater than $50,000 up to $100,000 requires final approval by the CD/PDC. Mitigation amounts for home loans greater than $100,000 requires final approval by AA/DA.

f. For business loan mitigation amounts greater than $50,000 up to $200,000 requires final approval by the CD/PDC. Mitigation amounts for business loans greater than $200,000 requires final approval by AA/DA.

3. The proposed device or measure must protect or mitigate against damage from the same type of occurrence as the declared disaster (e.g., protection against future flood damage when the disaster was a flood).

4. The applicant must choose the protective device or mitigation measure. You must not recommend any specific mitigation measure or comment on the relative merits of one measure as compared to another. The Loss Verifier must evaluate each request for need or appropriateness before you can take action.

5. During loan processing you must:

a. Not include the additional mitigation amount in the credit elsewhere determination (because these costs are voluntary);

b. Address in the case file how the applicant will fund the difference if the cost of the device or measure exceeds the allowable mitigation loan amount; and

c. Include in the LAA a specific use of proceeds condition.

6. Generally, applicants can request funds for mitigation at any time during the filing period, or if a loan is approved, through the time of full disbursement. After full disbursement, we will accept a request for additional funds for mitigation if we determine that the delay resulted from substantial causes essentially beyond the control of the applicant.

7. You must base the 20 percent limitation on the verified physical loss (the original verified physical loss, plus increases, and less decrease) at the time of the

approval of an additional amount for mitigation. If the amount of the verified loss for physical damage is subsequently decreased, we do not decrease eligibility for mitigation funds we have already approved. But if the amount of the verified loss for physical damage is subsequently increased, mitigation eligibility is increased proportionally.

8. Alternate use of loan eligibility is permissible to cover mitigation measures. The 20 percent limit applies only to the amount added to the loan amount for physical damage, and not to the alternate use. As with all requests for alternate uses of eligibility, approval is contingent upon our conclusion that sufficient repairs can be made to make the damaged property reasonably usable and safeguard the Agency's collateral. Generally, we accomplish this by disbursing that part of the proceeds to fund the necessary repairs prior to that part to fund the mitigation measure.

9. In cases of a condominium or similar association where the damage is to the real property of individual unit owners and to the common property owned by the association, the individual condominium unit owners may assign their mitigation eligibility to the condominium association.

10. Tenants who own leasehold improvements are eligible for mitigation. However, a lease requirement to repair the owner's real property does not convey mitigation eligibility to the tenant.

ECONOMIC INJURY DISASTER LOANS

3.30. ECONOMIC INJURY DISASTER LOAN (EIDL) ELIGIBILITY

A. Eligible Concerns. The Small Business Act authorizes SBA to make working capital loans to eligible farm related and non-farm related small business concerns, most private non-profits of any size, small businesses engaged in aquaculture, and small agricultural cooperatives which:

1. Are located within the declared disaster area; and

2. Have suffered, or are likely to suffer, substantial economic injury as a result of the disaster; and

3. Do not have Credit Available Elsewhere; and

NOTE: A business need not suffer any physical damage to be eligible for EIDL assistance.

NOTE: Generally, applicants eligible for regular SBA 7(a) business loans are also eligible for EIDLs. However, owners of rental property (landlords) and most PNPs of any size are eligible for EIDLs, although not for regular SBA business loans.

B. Definitions (32)

For purposes of establishing EIDL eligibility, the following definitions apply.

1. Small means any business concern or agricultural cooperative meeting the applicable size standard for its industry at the time the declared disaster commenced.

2. Business concern or concern means any business entity organized for profit, with a place of business located in the United States which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor. The business concern may be in the form of an individual proprietorship, partnership, limited liability entity, corporation, joint venture, association, trust, or a cooperative; except that where the form is a joint venture there can be no more than 49 percent participation by foreign business concerns in the joint venture. Generally, concerns eligible for EIDLs must conform to SBA's 7(a) program requirements.

3. Agricultural cooperative means those cooperatives acting pursuant to the provisions of the Agricultural Marketing Act [12 U.S.C. 114(j)] and Section 3(j) of the Small Business Act. These associations operate for the mutual benefit of the members (producers or purchasers) and conform to a or b and, in all cases, c below:

   a. No member of the association is allowed more than one vote because of the amount of stock or membership capital they may own therein;

   b. The association does not pay dividends on stock or membership capital in excess of 8 percent per annum; and

   c. The association does not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of the business transacted with or for members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by the association.

4. Aquaculture is defined as the propagation and rearing of aquatic organisms in controlled or selected aquatic environments for any commercial, recreational, or public purpose (as defined by the National Oceanic and Atmospheric Administration). Aquaculture enterprises fall under NAICS codes 112511-FinfishFarming and Fish Hatcheries; 112512-Shellfish Farming; 112519-Other Aquaculture (animal organisms, e.g. turtles, frogs, alligators); and 111998-Other Miscellaneous Crop Farming (plant organisms, e.g. algae, seaweed). Eligible aquaculture can take place in a natural or manmade environment, and can involve both marine and freshwater species. See also paragraph 3.4 G.

5. For private non-profit organizations, refer to paragraph 3.2, 3.25, 3.26 and 3.27.

C. Basic EIDL Eligibility Determinations

You must make three basic eligibility determinations on all EIDL applications.

1. Location. Section 7(b) (2) of the Small Business Act requires that all EIDL applicants be located in a declared disaster area. This includes all counties covered in the declaration. There must be a physical presence in the disaster-affected area for a business to be eligible. An applicant's economic presence alone in the affected area(s) does not meet this location requirement. The applicant must demonstrate a physical presence. The physical presence must relate to the claimed economic injury and should be tangible and significant. Merely having a P.O. Box in the disaster area would not qualify as a physical presence.

2. Business Activity. You must consider two measures of business activity. Both must be an eligible activity in order for the applicant to be eligible for EIDL assistance.

   a. Business Loss Activity: The activity for which the loss is being claimed must be eligible. Agricultural enterprises (excluding aquaculture) are the most common ineligible activities conducted by sole proprietors. If this is the primary industry, the proprietor is ineligible regardless of the nature of the activity claiming the loss. (For the specific policy concerning the eligibility of agricultural enterprises, see paragraph 3.30 F 1 x)

   b. Primary Industry: You must determine if the applicant business concern, combined with its affiliates (refer to SOP subparagraph 2.4 A 5 b (3), 3.32 C., and 13 CFR §121.103 for guidance on determining affiliation), conducts more than one type of business. If so, you must identify the primary industry of the affiliated group. This is generally the activity producing the most revenue (refer to 13 CFR §121.107). The primary industry of the affiliated group must be an otherwise eligible activity for the applicant to be eligible, regardless of the nature of the loss activity.

      For example: Joe Smith owns 100% of a corporation named ABC, Inc. which operates a clothing store. ABC, Inc. applied for an EIDL as a result of a 2014 disaster. Mr. Smith also owns a farm and reports income from his farm operation on Schedule F of his personal IRS Form 1040, Federal Income Tax Return. He reported gross revenue of $750,000 for the farm operation in 2013 which was the year preceding the disaster. The gross revenue for ABC, Inc. in 2013 was $240,000. As a result, the primary industry of the affiliated group is farming which is ineligible for EIDL assistance. Farming is the primary industry because the farm operation generated more gross revenue in the year preceding the disaster than the clothing store. This means neither the farm operation nor ABC, Inc. would be eligible to receive an EIDL. However, if ABC, Inc. had physical losses as a result of the disaster, it would be eligible for a physical loan only.

3. Size. An applicant for an EIDL must be a small business concern. The applicant business, including any affiliates, must satisfy two criteria (13 CFR §121.301 and paragraph 3.32):

a. The size of the applicant alone (without affiliates) must not exceed the size standard for the industry in which the applicant is primarily engaged; and

b. The size of the applicant combined with its affiliates must not exceed the size standard designated for either the primary industry of the applicant alone or the primary industry of the applicant and its affiliates, whichever is higher. (For guidance on making the size determination, refer to 13 CFR §121.)

NOTE: Private non-profit organizations of any size are eligible.

D. Independently Owned and Operated Business. (34)

Section 3(a) of the Small Business Act states: For the purpose of this Act, a small business concern…shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. You decide these issues on a case-by case basis.

1. Critical Factors. You must examine two critical factors to determine if a business is independently owned and operated.

a. The owner(s) must have a business risk resulting from investing in facilities or equipment and by incurring ongoing expenses, which must be paid regardless of whether the operation generates a profit. The owner must share the risk of both the profits and the losses.

(1) For example, an individual participates as a crewmember on a fishing boat and does not have an investment in the boat or equipment. The crewmember works for a share of the catch, reduced by certain trip expenses (fuel, food, etc.), which are deducted from the catch. If the catch is insufficient to cover the expenses, the crewmember incurs no liability for trip expenses. Thus, this individual is not a small business concern and is not eligible for EIDL assistance.

b. The business operation must be free from significant control by other concerns (e.g., the customers or businesses that pay for its services). However, in determining what constitutes significant control, consider that a state licensing prerequisite that requires an independent contractor to work in conjunction with a licensed firm does not, in and of itself, disqualify an independent contractor from participation in the EIDL program.

(1) For example, in the real estate industry, the broker/agent relationship is often more related to State law rather than any sort of significant day-to- day control over what the agent does in terms of how they conduct business, build clientele, or market services. Many agents operate to a great deal independently of the broker with their own websites, marketing materials/programs, and may even have their own staff including

licensed assistants and transaction coordinators. In such cases, it is possible, considering all relevant circumstances, to find that the agent is an independently owned and operated business and may be eligible.

2. Factors to Consider. Some factors to consider in making eligibility determination include:

a. An agent is engaged by the broker for an indefinite period of time.

b. The agent is not required to follow a routine or schedule set by the firm and is free to set his own working hours.

c. The broker firm may furnish forms, records, and promotional materials, but the agent furnishes his own place of business, equipment, all other materials, and supplies used in performing his services.

d. The agent may independently hire, supervise, pay, and discharge others assisting him.

e. The broker firm pays the agent strictly on a commission basis. The agent receives no pension, sick leave days, paid vacation days, or bonuses and has no guaranteed minimum amount of pay. The broker does not carry workmen's compensation insurance on the agent and does not deduct social security taxes or federal or state income taxes from the agent's pay.

f. Substantially all payments for their services as agents are directly related to sales, rather than the number of hours worked.

g. Their services are performed under a written contract providing that they will not be treated as employees for Federal tax purposes.

h. Possession of a business license does not in and of itself create eligibility.

i. If the applicant is a franchise, refer to an Attorney Advisor for eligibility guidance.

3. Effect of IRS Guidelines. Not all self-employed persons or independent contractors for tax purposes rise to the level of "small business concern" as required for EIDL eligibility. Merely filing a Schedule C with the Federal Tax Return does not qualify the individual as an independently owned and operated business. We are not bound by IRS guidelines for determining if an individual is an employee or an independent contractor. EIDL eligibility is contingent upon compliance with the business risk and freedom from control factors.

E. Other EIDL Eligibility Matters

1. Drought. Under Secretary of Agriculture and Governor's Certification disaster declarations, drought is an eligible declaration type. Therefore, small businesses and small agricultural cooperatives that have suffered economic injury as a direct result of drought are eligible for EIDL assistance under both types of

declarations. As drought is not an eligible declaration type under a Presidential or Agency declaration; physical disaster assistance is not available.

NOTE: Per the National Integrated Drought Information System Act of 2006 as amended, the term "drought" means a deficiency in precipitation:

a. That leads to a deficiency in surface or subsurface water supplies (including rivers, streams, wetlands, ground water, soil moisture, reservoir supplies, lake levels, and snow pack); and

b. That causes or may cause:

(1) Substantial economic or social impacts; or

(2) Substantial physical damage or injury to individuals, property or the environment.

For example, a ski resort that is suffering economically as a result of a deficiency in precipitation that would cause a deficiency in snow pack or a marina that is suffering as a result of low lake levels could be eligible under a drought declaration.

2. Below Average Water Levels. The Administrator may declare a disaster for below average water levels on the Great Lakes, or on any body of water that supports commerce by small business concerns.

NOTE: This includes, but is not limited to, lakes, rivers, creeks, channels, and other bodies of water that support small business concerns. It also includes bodies of water that border, but are not completely in, the United States, such as the Great Lakes (which share a border with Canada) or the Rio Grande River (which shares a border with Mexico).

3. Nurseries. SBA regulations define nurseries as commercial establishments deriving 50 percent or more of their annual receipts from the production and sale of ornamental plants and other nursery products, including, but not limited to, bulbs, florist greens, foliage, flowers, flower and vegetable seeds, shrubbery, and sod. This type of business is a nursery farm and is an agricultural enterprise.

For purposes of EIDL eligibility, nurseries deriving less than 50 percent of annual receipts from the production of nursery or other agricultural products are not agricultural enterprises.

a. In SecAg's and Governor's Certification declarations specifically for drought, nursery farms, wholesale nurseries, and retail nurseries are all eligible for EIDL assistance, by statute.

b. In Presidential and Agency Declarations, nursery farms (as defined by SBA) are not eligible for EIDL assistance because they are classified as agricultural enterprises. Wholesale and retail nurseries, that is, nurseries

that do not produce or propagate the majority of the merchandise which they sell, are eligible except for the portion of their business activity, which deals with propagation.

4. Changes in Market or Commodity Prices. Changes in market or commodity prices, for whatever reasons, do not constitute a basis to find eligible economic injury.

5. Military Reserve EIDL (MREIDL).

a. The intent of this program is to provide working capital assistance to small businesses that experience, or will experience, financial difficulties as a result of an essential employee being called up for active duty as a Reservist or member of the National Guard due to a period of military conflict. An essential employee is an individual (whether or not the owner of the small business) whose managerial or technical expertise is critical to the successful day-to-day operations of the applicant small business.

b. Period of military conflict is (1) a period of war declared by Congress, or (2) a period of national emergency declared by Congress or the President, or (3) a period of contingency operation. A contingency operation is designated by the Secretary of Defense as an operation in which our military are or may become involved in military actions, operations, or hostilities (e.g. peacekeeping operations).

NOTE: A period of military conflict does not include instances when the Governor may activate the Guard as a result of a disaster event.

c. Although we can accept applications with a notice of expected call-up, we cannot complete all processing until we have a copy of the essential employee's official call-up orders. Upon receipt of an acceptable application, process the file to a decision. If a decline or withdrawal is recommended, decline or withdraw the file using normal procedures. If an approval is possible, withdraw the file using code WD-66 pending receipt of the official call-up notice. Upon receipt of the official notice, reactivate the file and complete the processing. (See Appendix 7 for a complete list of the filing requirements).

F. Ineligible EIDL Applicants

1. The following applicants are not eligible for EIDL assistance.

a. Lending or Investment Concerns (except for real estate investments held for rental)

b. Multi-level Sales Distribution (Pyramid) Concerns

c. Speculative Activities

d. Non-profit Organizations that are not considered a Private Non-Profit

e. Consumer and Marketing Cooperatives. However, other cooperatives and small agricultural cooperatives meeting applicable size standards are eligible

f. Not a small business concern (except for PNP of any size)

g Gambling Concerns. Concerns that derive more than one-third of their annual gross revenue from legal gambling activities

h. Casinos, Racetracks, Etc. Businesses whose purpose for being is gambling (such as casinos, racetracks, poker parlors, etc.) are not eligible for EIDL assistance regardless of their ability to meet the one-third criteria established for otherwise eligible concerns

i. Loan packagers who derives more than one-third of their annual volume from the preparation of applications seeking financial assistance from SBA

j. Religious Organizations

k. Political or Lobbying Concerns

l. Pawn shops. When 50 percent or more of previous year's income was derived from interest

m. Real Estate Developers. Establishments primarily engaged in subdividing real property into lots and developing it for resale on their own account.

n. Life Insurance Companies

o. Concerns Engaged in Illegal Activities

p. Government-owned concerns. Except for businesses owned or controlled by a Native American tribe. Refer to paragraph 3.1 R for guidance regarding tribal owned businesses

q. Concerns with Principals Incarcerated, on Parole or Probation. The concern remains ineligible if the parole or probation is lifted solely because it is an impediment to obtaining a loan. (See possible exceptions in paragraph 3.6 A)

r. Concerns engaged in live performances of, or the Sale of Products, Services, of a Prurient Sexual Nature

s. Businesses considered as hobbies

NOTE: The following applicants are not eligible for EIDL assistance; however, they may be eligible for 7(a) assistance.

t. Concerns Not Located in the Declared Disaster Area.

u. Concerns Determined by SBA to have Credit Available Elsewhere.

v. Concerns Involved in Change in Ownership Situations. Concerns which had a substantial change of ownership (more than 50 percent) after the impending economic injury became apparent, and no contract for sale existed prior to that time are ineligible (see possible exceptions in paragraph 3.1 H and I).

w. Concerns Established Post-Disaster. If a small concern was established after an impending economic injury became apparent, the owner assumed the risk and did not incur economic injury.

NOTE: The only exception subparagraph v and w above is under a Secretary of Agriculture designation. In the case of a single declaration covering multiple years, an eligibility determination due to the change in ownership or creation of a new business after the onset of the disaster would need further review. This determination is due to the delayed time from the onset of the disaster to the date the disaster is declared and should be conducted on a case-by-case basis. Historically, a new or separate declaration for each year is issued and this may give eligibility for the business.

For example: The Secretary of Agriculture declaration has an incident period that covers January 1, 2012 through June 30, 2014 or multiple years due to drought conditions. The onset of the disaster was January 1, 2012 but the applicant did not purchase the business until January 2, 2013. In this example, the onset of the incident date is prior to a change in ownership or new business creation. However, the business is determined to be eligible from the date the business was purchased since crops in 2013 and 2014 were affected by the drought conditions.

x. Agricultural Enterprises. If the primary activity of the business (including its affiliates) is agricultural, as defined in Section 18(b)(1) of the Small Business Act, neither the business nor its affiliates are eligible for EIDL assistance even though the non-agricultural portion of an agricultural enterprise may be eligible for business disaster assistance (see paragraph 3.4 G). If more than 50% of an Applicant's cost of goods sold is derived from the purchase of goods from the principals' and/or affiliates' agricultural production, the Applicant is considered an adjunct activity of an agricultural enterprise (e.g. farming operation) and not eligible for EIDL assistance.

Exception: Small businesses which are engaged in aquaculture (see paragraph 3.4 G 3) are eligible for EIDL assistance, under section 3(z) of the Small Business Act. PNPs engaged in aquaculture are not eligible.

y. Feedlot Operators. Feedlot operators are not eligible for EIDL assistance, regardless of the manner in which they operate (e.g., buying and selling the livestock at their own risk; feeding livestock owned by another and being compensated based upon weight gain; or feeding

livestock owned by another and being compensated on the basis of cost of feed plus space rent). A feedlot operator constitutes an "agricultural enterprise" as defined by the Small Business Act.

z. Members of Congress who hold a direct or indirect ownership interest in an unincorporated small business, in collateral, or in a corporation, LLE, or partnership that would require them to enter into a contract with SBA (see subparagraph 3.4 L).

3.31. ELIGIBLE EIDL LOAN AMOUNT

A. Definitions.

1. Economic Injury (EI) is a change in the financial condition of a small business concern, small agricultural cooperative, small aquaculture enterprise, or PNP of any size (excluding religious organizations) attributable to the effect of a specific disaster, resulting in the inability of the concern to meet its obligations as they mature, or to pay ordinary and necessary operating expenses. Economic injury may be reduced working capital, increased expenses, cash shortage due to frozen inventory or receivables, accelerated debt, etc.

   The EIDL loan amount is restricted to the working capital needed to return the business to normal operations. Needs are working capital requirements the business could have covered had the disaster not occurred, but cannot meet on its own or through other resources or recoveries until normal operations resume.

2. Gross Margin (GM) is sales less Cost of Goods Sold (COGS). Gross Margin Percent (GM %) is GM divided by sales.

3. Modified Contribution Margin (MCM) is sales, less COGS, less obviously variable expenses. Modified Contribution Margin Percent (MCM %) is MCM divided by sales.

4. Extraordinary Items are expenses outside of normal operations caused directly by the disaster.

B. Transferability of EIDL Eligibility.

You must consider the following when allowing for a transfer of EIDL eligibility from an existing business to a new business:

1. This policy applies in all cases when an EIDL applicant elects to discontinue the disaster-impacted operation and immediately pursue another business venture.

2. Both the existing and new concerns must qualify as small businesses and be in compliance with 13 CFR §123.300 and §123.301.

3. As in all cases, you must fully document and justify the ability of the new company to repay any proposed disaster loan(s) taking into account all start-up costs, working capital requirements, and contingencies.

4. The amount of EIDL eligibility in these cases is strictly based upon an analysis of the disaster-impacted business.

5. For Phase II processing, you must make a reasonable presumption of the return to normal operations for the existing business had it continued. The working capital requirements of the new business are not to be considered for determining EIDL eligibility.

C. Phase I Method

Phase I Provides immediate working capital to eligible applicants. The business must have been operating for at least one year prior to the disaster. If the applicant requests more EI funds than we can authorize under Phase I, you must use the Phase II method.

1. Applies to all declarations except MREIDL; and

2. Applies to original processing of applications, reconsiderations, reacceptances, and appeal of reconsiderations received within 120 days from the end of the incident period;

3. Applies to loan modifications when no economic injury was approved at original processing and the request was received within 120 days from the end of the incident period or when full Phase I eligibility was not allocated at original processing.

4. Does not require a needs analysis;

5. Requires the following processing methods.

   a. Determine normal annual sales and normal GM. Make no adjustments to COGS when determining GM.

   b. Insurance or other compensation received to offset the economic injury must be considered in determining the loan amount.

   c. EIDL applications under Phase I cannot be declined for unsubstantiated economic injury.

   d. When processing applications for disaster damaged rental properties (residential and commercial) you must call the applicant or authorized representative and ask if there was any loss of rents and/or added expenses because of the disaster. If the answer is no, then you should withdraw the loan request for economic injury. If the answer is yes, then you must get the information regarding the extent of lost rents and/or additional expenses due to the disaster and process using the Phase I method. However, the EIDL must not exceed the amount of lost rents and/or additional expenses.

   e. Computation. Phase I EI = (Normal Annual Sales x Normal GM %) ÷12 x 4.

   f. Loan Amount. Phase I eligibility cannot exceed $200,000.

NOTE: In the event the Phase I eligibility computation exceeds $200,000 and the applicant indicates $200,000 or less is adequate to sustain the business until normal operations resume, the processing Loan Officer can approve and justify their decision.

g. CET Determination. Applicants who have Credit Available Elsewhere are ineligible for economic injury assistance. If you determine that the applicant has no Credit Available Elsewhere, you must assume that no personal, business, or affiliate resources are available to offset the EI amount.

h. Use of Proceeds The use of proceeds is restricted to the categories of working capital and notes payable.

5. Requires a final action from any SLO 2 or 3.

D. Phase II Method

Phase II. The greater amount of detail necessary for Phase II is due to the likelihood of extended injury periods and the identification of essential needs analysis. Unlike Phase I, Phase II does not use GM, but instead uses the Modified Contribution Margin (MCM), defined in Appendix 12, to measure EI. In addition, Phase II measures EI using a balance sheet analysis and by identifying extraordinary items, frozen receivables, frozen inventory, and accelerated debt.

1. Phase II applies to:

a. All increase requests (including Phase I EIDLs);

b. Any B/E application received 120 days after the incident ending date;

c. All MSE requests;

d. MREIDLs;

e. Any applicant not agreeable with the Phase I EIDL amount;

f. When the Phase I eligibility computation exceeds $200,000.

NOTE: In the event the Phase I eligibility computation exceeds $200,000 and the applicant indicates $200,000 or less is adequate to sustain the business until normal operations resume, the processing Loan Officer can approve and justify their decision.

2. Processing Procedure and Computation.

You must use the Phase II EIDL Worksheet in the case file to complete a Phase II analysis. General processing steps are as follows:

a. Identify the injury period in accordance with the instructions noted in Appendix12.

b. Determine Normal Sales, Normal MCM percent, Injury Period Sales and Injury Period MCM percent in accordance with the instructions noted in Appendix 12. Adjust COGS and other variable expenses when necessary to make the normal MCM and injury period MCM components comparable

c. Phase II Lost MCM = Normal MCM - Injury Period MCM.

d. Determine if it is necessary to include any extraordinary items in the loan amount.

e. Add (c) and (d) and deduct business interruption insurance and other recoveries. The result is total EI. This amount serves as a limit to the amount of needs that are attributable to the disaster and addressed by an EIDL.

f. Calculate the total financial needs of the business in accordance with the directions in Appendix 12. The only criteria for the needs calculation is that the need be essential to the continued viability of the business.

3. Use of Proceeds. Proceeds would generally be allocated to working capital, notes payable and accounts payable.

4. Approval Authority. SLO 2 or 3 can take final action on a Phase II approval.

E. Ineligible Uses of Loan Proceeds. EIDL proceeds may not be used for:

1. Payment of any dividends or bonuses;

2. Disbursements to owners, partners, officers, directors, or stockholders, except when directly related to performance of services for the benefit of the applicant;

3. Repayment of stockholder/principal loans, except when the funds were injected on an interim basis as a result of the disaster and non-repayment would cause undue hardship to the stockholder/principal;

4. Expansion of facilities or acquisition of fixed assets;

5. Repair or replacement of physical damages;

6. Refinancing long term debt;

7. Paying down (including regular installment payments) or paying off loans provided, or owned by another Federal agency (including SBA) or a Small Business Investment Company licensed under the Small Business Investment Act. Federal Deposit Insurance Corporation (FDIC) is not considered a Federal agency for this purpose;

8. Payment of any part of a direct Federal debt, (including SBA loans) except IRS obligations.

   a. If a direct Federal debt is delinquent, your recommendation must be based on independent documentation from the appropriate Federal agency explaining how the delinquency will be cured.

   b. If a direct Federal debt is delinquent because of the disaster, we should make arrangements with that Federal creditor to have payments deferred or a similar action taken to bring the delinquency current prior to approval of an EIDL. If the Federal creditor cannot or will not cooperate, the likely result will be a decline of the EIDL request. However, if the applicant has other resources or recoveries, we should generally allow (and perhaps require) those resources to be applied first to ineligible needs, such as the payment of direct Federal debt.

   c. When processing during the injury period, it is generally appropriate for you to negotiate with Federal creditors to defer payments (or take similar action) until the end of the injury period. You must document why this was or was not imposed.

9. Contractor malfeasance; and

10. Relocation

F. MREIDL. For the MREIDL, the incident period will begin with the deployment of the essential employee to active duty and will end upon release from active duty. Assume a 12-month injury period unless a more exact injury period is known (see Appendix 9).

G. See Appendix 12 for further information.

NOTE: Applicants who have Credit Available Elsewhere are ineligible for economic injury assistance. If you determine that the applicant has no Credit Available Elsewhere, you must assume that no personal, business, or affiliate resources are available to offset the EI amount.

3.32. SIZE DETERMINATION

A. Size Standard

SBA's size standards define whether a business concern is small and, therefore, eligible for an EIDL. SBA establishes size standards by types of economic activity, or industry, under the North American Industry Classification System.

B. Size Standards for an EIDL Applicant.
13 CFR §121.301(a) states: "For Business Loans and Disaster Loans (other than physical disaster loans), an applicant business must satisfy two criteria:

1. The size of the applicant alone (without affiliates) must not exceed the size standard for the industry in which the applicant is primarily engaged; and

2. The size of the applicant combined with its affiliates must not exceed the size standard designated for either the primary industry of the applicant alone or the primary industry of the applicant and its affiliates, whichever is higher.

NOTE: You must use the size standard in effect at the time the declared disaster commenced.

C. Definitions.

1. Business concern may be a sole proprietorship, partnership, limited liability entity, corporation, joint venture, association, trust, or cooperative.

2. Unaffiliated concern is a single legal entity that does not have any affiliates.

3. Affiliates: For detailed guidance on defining affiliation, refer to 13 CFR §121.103.

If your review of the assets and sources of income of the applicant concern and its principals show the existence of other business interests, you must determine whether affiliation exists. Concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both, either directly or indirectly. It does not matter whether control is exercised, so long as the power to control exists. Control may be either affirmative or negative. SBA considers factors such as:

a. Common ownership, common management, contractual relationships, identity of interest, affiliation through predecessor concerns, and nature of control;

b. The applicant concern and all its domestic and foreign affiliates, whether organized for profit or as non-profit, as potential members of the affiliated group; and

c. The nature of ownership and control. For example:

(1) The 100 percent owner of a closely held corporation also operates another business as a sole proprietorship. In this case, due to common ownership and control, affiliation is obvious.

(2) An applicant partnership has two general partners, both of whom have 10 percent ownership in a corporation. Here the partners may have an identity of interest and may be viewed as one party having 20 percent ownership in the corporation. Whether that ownership is controlling is dependent on the ownership of the remaining 80 percent, who are the officers, and what are their powers of office. If the remaining 80 percent is held by one person who is also the president, the partners probably, do not have control. However, if the remaining 80 percent is divided equally among eight other persons, the partners could have control. The officers, the powers of office, the relationship among the other eight owners, and the relationship among the

partners and those eight owners, are all factors in the final determination of control and affiliation.

4. Affiliated group means two or more distinct legal entities, which are affiliated.

5. Labor Surplus Area Differential. The applicable size standards are increased by 25 percent when the applicant is in a labor surplus area. Labor surplus areas are listed annually in the Department of Labor publication Area Trends. This information is available online at www.doleta.gov.

D. Types of Size Determinations.

1. Initial (informal) size determinations qualify EIDL applicants as small business concerns. You make initial size determinations (using the Size Determination Worksheet housed in DCMS) and an SLO takes final action. You must obtain guidance from ACDA if issues are unclear or controversial. You must decline the application if the determination results in a finding of "other than small" and send an SBA Form 355, "Application for Small Business Size Determination", with our decline letter.

2. Formal size determination is the reconsideration of an initial size determination. You make formal size determinations (using the Size Determination Worksheet housed in DCMS) based upon information submitted by the applicant on SBA Form 355. (Refer to 13 CFR §121.1001 to §121.1009 for policies for a formal size determination.) We require SLO concurrence and a written concurrence by the ACDAP, and ACDA; however, only the CD/PDC can take final action. If this results in a finding of other than small, they must decline the application. Our decline letter should be prepared and signed by the CD/PDC and must state that the applicant has the right to request a review of the size decision. The applicant must make this request to SBA's Office of Hearings and Appeals (OHA) within 15 calendar days after receipt of the formal size determination.

3 The size determination made by the CD/PDC is final unless OHA accepts a petition for a review. The procedures for requesting discretionary reviews by OHA are found in 13 CFR Part 134.

NOTE: Please refer to Appendix 11 for additional information on how to make a size determination.

CHAPTER 4

ELIGIBLE LOAN AMOUNT

4.1. VERIFICATION OF DAMAGE

Applications for physical disaster loan assistance generally require on-site inspections, which are conducted by Loss Verifiers assigned to the Damage Verification Center (DVC). The only exceptions to on-site inspections are Auto-Declines, Pre-LV Declines, and loans to unit owners for condominium association assessments (see paragraph 3.24 B 3).

A. Loss Verifiers conducting on-site verifications have specific responsibilities that include, but are not limited to:

1. Determining estimated cost of repair or replacement of real, personal, and business property;

2. Providing information gathered during the on-site inspection to guide you in establishing eligibility within program guidelines;

3. Estimating replacement and pre-disaster FMV of damaged property.

NOTE: In circumstances where areas are inaccessible and inspections are not deemed feasible within a reasonable time frame, the AA/DA can approve an alternate method of damage verification.

B. Loss Verifiers assigned to the DVC are responsible for conducting all Surveys and Preliminary Damage Assessments (PDAs).

C. Loss Verifiers assigned to the PDC Loss Verification Department have the following responsibilities:

1. Conducting flood zone determinations for all applications, which includes determining if property is located within the CBRS;

2. Performing reverifications (including on-site) and progress inspections (CONUS/OCONUS);

3. Determining appropriateness of and conducting on-site reverifications and on-site progress inspections;

4. Evaluating the appropriateness of disaster mitigation requests; and

5. Reviewing pre-disaster mitigation project cost estimate/contractor's bid, etc. for reasonableness in cost and reasonableness of the measure as it relates to appropriate hazard mitigation.

4.2. REQUESTING REVERIFICATION

A. If an applicant does not agree with the Loss Verifier's damage estimate, advise that a request for reverification must be accompanied by documentation to show that the cost to restore the property to pre-disaster condition is more than the amount in the Loss Verifier's report.

B. Generally reverification requests should be performed after you determine the likelihood of loan approval. If repayment ability is not evident using the original Loss Verifier's report, the outcome cannot change unless the reverification:

1. Results in refinancing eligibility; and

2. This additional eligibility is sufficient to overcome a lack of repayment ability. (If decline was indicated for other than repayment reasons, a reverification would not alter the outcome.)

4.3. DETERMINATION OF AMOUNT OF PHYSICAL LOAN ELIGIBILITY

Loan Officers are responsible for making all eligibility determinations, including ineligible property, and applying program limitations to eligible property.

A. Definitions.

1. The SBA verified total loss is the amount reported by the Loss Verifier without regard to program limits.

2. Duplication of Benefits (DOB) is duplicate assistance for any part of a loss for which the individual or business has received financial assistance under any other program, from insurance, or from any other source.

3. Uncompensated physical loss is the difference between SBA verified total loss and any deductions (insurance or other recoveries) for DOB.

4. Eligible physical loss is the difference between the uncompensated physical loss and any amounts in excess of landscaping limits or other program lending limits.

B. Loan Officer Adjustments to the SBA Verified Total Loss. The Loan Officer must analyze the verified losses, determine eligibility of all damaged property, apply all restrictions and limitations, and add any associated indirect expenses. The result is the adjusted verified total loss.

1. For all types of property loss, the Loss Verification Report provides an estimate of the cost to repair/replace all disaster damage by category.

2. You are responsible for applying all other restrictions and limitations in determining the amount of physical loss to eligible property.

3. You may increase the SBA verified total loss to account for any associated indirect expenses in accordance with the provisions of paragraph 3.12 B 2.

4. You are responsible for preventing DOBs. You must check all disaster loan applications during processing for possible DOBs. Duplication can occur when any agency provides assistance for a loss, which is the primary responsibility of another agency to provide. Generally, each agency should, in turn, offer and be responsible for delivering its program(s) without concern about duplication with a program later in the sequence.

   a. The sequence list determines the order in which a program should provide assistance and what other resources it must consider before it does so. When the delivery sequence has been disrupted, the disrupting agency is responsible for rectifying the duplication. Under a Presidential declaration, generally, the delivery sequence is:

      (1) Volunteer agencies emergency assistance programs (ARC, Salvation Army, etc.); insurance (including flood insurance)

      (2) FEMA Home Repair and Replacement;

      (3) SBA and Department of Agriculture (Farmers Home Administration) disaster loans;

      (4) FEMA Other Needs Assistance (ONA);

      (5) Other federal, state and local government agencies (e.g., Community Development Block Grants (CDBG grants));

      (6) Volunteer agencies' additional assistance programs and

      (7) The Cora Brown Fund (administered by FEMA).

C. Deductions from the SBA Verified Total Loss. By statute, eligibility for SBA disaster loans is limited to underinsured or uncompensated losses. You must deduct insurance or any other compensation received (from any source) for damage to eligible property to determine the amount of uncompensated physical loss. You do not deduct any insurance or other compensation received for purposes other than loss or damage to eligible property. (This unduplicated compensation is available to the applicant to apply toward repair of ineligible property or other purposes.) Deductions from the SBA verified total loss can originate from:

1. American Red Cross (ARC) Grants. ARC disaster emergency assistance is usually in the form of vouchers for food, shelter, clothing, clean-up kits, etc. We do not consider this type of assistance a duplication of benefits (DOB) and you do not deduct it from the verified losses. However, if the ARC provides assistance for permanent repairs, you must deduct this assistance rather than require repayment to ARC.

2. FEMA Public assistance (PA). Private non-profit (PNP) organizations may receive grant assistance for emergency protective measures prior to applying for a loan from SBA for their disaster-related damages. This emergency grant assistance may duplicate the loss SBA verified (e.g., debris removal). We must perform a duplication of benefits (DOB) check on all PNP applications. If the

applicant did receive grant monies for emergency protective measures that duplicate our verified loss, the Loan Officer must decrease the eligible loss amount to correspond with the DOB.

3. FEMA Individual Assistance (IA) and the Assistance to Individuals and Households Program (IHP). IHP has two broad categories of assistance, Housing Assistance (HA) and Other Needs Assistance (ONA). IHP assistance of any type can be considered a duplication of benefits and must be accounted for in the SBA disaster loan assistance.

4. FEMA Housing Assistance (HA): Disaster-related housing assistance for Individuals and Households displaced from their pre-disaster primary residences, and/or whose pre-disaster residences are rendered uninhabitable; who are underinsured, or have no insurance to provide their housing needs. SEE NOTE BELOW.

   a. Temporary Housing: Rental assistance and emergency living expenses (ELE) are funds provided to displaced disaster survivors. Do not deduct FEMA funds allocated for these purposes from SBA's verified total loss.

   b. Repairs: Funds provided for minimal repairs to make a residence habitable. You must deduct any amount if it exceeds $100.

   c. Replacement: Financial assistance for the replacement of owner-occupied residences. You must deduct any amount if it exceeds $100.

   d. Permanent Housing Construction: Assistance to individuals in insular areas and remote locations. Applicants who receive Permanent Housing Construction assistance (NEMIS Code EPH) are provided a replacement home by FEMA. Real estate eligibility may be allowed only for non-structural losses such as debris removal, landscaping, or other land improvements. A manufactured home or readily fabricated dwelling provided under FEMA's temporary assistance program does not affect the applicant's eligibility.

   NOTE: FEMA may issue a letter allowing an applicant to use funds provided for Home Repair/Replacement to pay rental or short-term lodging expenses in excess of the previously designated amount. When the applicant has received such a letter and can provide copies of receipts/invoices documenting the amount paid for rental or short-term lodging, you may reduce the deduction for FEMA Home Repair/Replacement by an amount equal to the rental expense in excess of the previously designated temporary housing amount. FEMA may not update their records regarding Home Repair/Replacement, but the letter and amount previously allowed for temporary housing will be available in NEMIS.

5. FEMA Other Needs Assistance (ONA). Financial assistance to individuals and households who have no applicable insurance and (when appropriate) have been denied by SBA, for disaster-related expenses and serious needs. This type of assistance is after SBA in the delivery sequence (see subparagraph B 4 of this paragraph). We do not deduct ONA assistance from the SBA verified losses

during processing. ONA that duplicates SBA's verified loss must be repaid from SBA loan proceeds.

a. Medical, Dental, & Funeral Expenses. FEMA awards for these purposes are not a DOB. However, there may be circumstances when the applicant has received the maximum total grant award from FEMA and continues to have unmet disaster-related medical personal property needs. In this limited circumstance, the applicant may have loan eligibility for that amount of medical personal property losses which exceeds FEMA's medical personal property grant.

b. Personal Property and Transportation: FEMA awards for repair/replacement of personal property and vehicles are a DOB if the SBA loan includes personal property or automobiles.

c. Other Expenses: Awards for "Other Expenses" are a DOB if the same items covered by FEMA are included in the SBA LV Report. If the items covered by FEMA were not verified by SBA, they are not a DOB.

d. Repayment of FEMA. Occasionally, FEMA may make an out-of-sequence award to an applicant who subsequently was approved for a disaster loan. You must eliminate the duplicated benefit by using loan proceeds to repay the grant program in the amount of the duplicated assistance for any loan that includes proceeds for real property and contents. Additionally, if we learn of an out-of-sequence award after approval but before full disbursement, you must modify the loan to allocate funds to repay FEMA. The LAA must include a use of proceeds requiring reimbursement to IHP in for the exact amount, including cents.

NOTE: An IHP award for personal property may exceed SBA's verified loss of personal property. In this situation, the maximum DOB for SBA is the amount of verified personal property loss. RE loan proceeds are not used to repay an IHP award for personal property losses.

For example, the IHP award for personal property is $7,500 and SBA verifies personal property damages at $6,900. In this scenario, the maximum DOB for personal property losses would be $6,900; and the amount of the loan proceeds that would be repaid to FEMA is $6,900.

6. Net insurance proceeds are funds available to the applicant for repair/replacement of disaster-damaged property and must be deducted from the SBA verified total loss.

a. You must determine if insurance was in force to cover the disaster loss. If it was, you must attempt to document the amount of the net insurance recovery for any coverage, which may result in a DOB such as real estate, contents, business interruption, etc. Insurance recoveries may be documented through verbal contact with the insurer or by obtaining written documentation such as claim summaries, adjuster's proof of loss, or similar documents. For those cases where attempts to obtain

documentation are not successful, you must deduct the amount stated by the applicant and include an assignment of insurance proceeds in the LAA.

b. Increased Cost of Compliance (ICC). For applicants with flood insurance, you must review for ICC coverage whenever code requirements or mitigation is included in the verification report.

c. Ineligible Property. Insurance may cover damage to both eligible and ineligible property. When an insurance breakdown is not provided, you should apply the insurance recovery first to ineligible property and then to eligible property.

d. Personally Owned Vehicles. You must deduct the insurance proceeds voluntarily or involuntarily used to reduce or pay off a lien on the vehicle.

e. Exclusions from Net Insurance. The full amount of the insurance is sometimes not available to the applicant. In those cases, you adjust the insurance recovery amount to reflect only those funds available for disaster recovery as a deduction from eligibility.

(1) Mandatory Payoff. When the holder of a lien on real property and/or business M&E has legal control of the insurance proceeds and requires that the proceeds be applied to reduce the lien balance, you do not deduct that amount. The reason the lender required the funds does not matter. You must obtain written or verbal verification from the lien holder that the payment was required. Telephone verification is preferable; however, the Comment Tab (CHRON) must state that the lender mandated or required the payment. You must also verify the actual amount applied to the lien balance through contact with the lienholder or by obtaining a receipt, account statement, etc.

NOTE: If an applicant elects to apply insurance proceeds for the reduction of an existing lien, or if the applicant requested the lender to demand payment, there is no exclusion from the insurance. You must deduct the full amount of the insurance proceeds from eligibility. However, if the applicant qualifies for refinancing, the voluntary payment amount could be reimbursed through allocation of refinance proceeds (see paragraph 3.27).

(2) Manufactured Housing Payoff. When a manufactured home with a lien is totally destroyed or substantially damaged and the applicant indicates that the insurance proceeds were applied to reduce the lien balance, you do not deduct the amount required to reduce the lien balance. No verification from the lienholder is required. However, you must still determine the actual amount applied to the lien balance by obtaining a receipt, account statement, or similar documentation.

NOTE: Substantial damage for mandatory payoff of a manufactured home means that the manufactured home had a verified loss of 50% or more of its value.

(3) Relocation Payoff. When an applicant has an executed contract for relocation from a damaged property with a lien and indicates that the insurance proceeds were applied to reduce the lien balance, you do not deduct that amount. No verification from the lienholder is required. However, you must still determine the actual amount applied to the lien balance by obtaining a receipt, account statement, or similar documentation.

(4) Third Party Fees. If an applicant hires an attorney, adjuster, or similar professional to assist with the insurance claim and pays the fee out of the insurance recovery, you do not deduct those amounts. You must verify the amount paid.

7. Donations and Free Labor. The following are potential duplication of benefits that may require the final loan amount to be reduced and will be addressed during the disbursement process.

a. Free Labor and Materials provided by the applicant, relatives, friends or charitable third parties to restore disaster damage, and the cost of any materials donated to the applicant for use in the restoration.

NOTE: If a relative or friend is an established professional in the applicable field and the repairs are performed as a third party transaction, labor costs may be eligible. Inclusion of these costs must be approved by the Supervisory Loss Verifier.

b. Overhead and Profit. You must deduct the amount of overhead and profit that has been deemed by LV to be excessive if the applicant business or an affiliated business is used to repair disaster damage.

8. Other Recoveries and Deductions. For any of the following types of recovery, you must also deduct the net amount received, which would duplicate an SBA loan.

a. Litigation: You must deduct net recoveries received by the applicant as the result of a lawsuit, settlement, or similar claim for disaster losses.

b. Grants and Gifts. You must deduct grants and monetary gifts from any other sources including, but not limited to, other federal agencies, state or local governments, volunteer agencies, charitable organizations, etc.

c. Government Sponsored Buyouts. You must deduct the net proceeds received by the applicant/borrower if FEMA or any other agency buys the damaged property. If the loan proceeds do not include moving expenses you do not deduct moving expenses associated with the purchase when paid by another agency or entity.

d. Mitigation. You must deduct mitigation assistance provided by FEMA, State or local agencies, insurance (ICC) or other sources if the LV report includes protective devices or mitigation measures. Please note that mitigation may be shown in the LV report as code-required upgrades.

e. HOA and Membership Groups. For a homeowners association, cooperative, or any other type of association or membership group with the power to assess members, you must deduct from the verified loss the amount of any permanent assessment levied against the members for disaster repair, excluding the special assessment for repayment of the SBA loan. If the HOA passes a temporary/bridge assessment and then reimburses the members the amount is not deemed duplication in this scenario.

f. Federal Income Tax Benefits: You do not deduct Federal Income Tax benefits from verified losses. We do not consider this a DOB even though IRS regulations permit victims to file for a refund of part or all of Federal income taxes paid in certain prior years or to carry forward any unused portion to reduce future years' Federal tax liabilities.

D. Assignments of Pending or Future Insurance Recoveries. To avoid DOBs for approved loans, every LAA stipulates borrowers must promptly notify and pay to SBA any insurance proceeds or other compensation, which exceeds the amount taken into consideration when we determined eligibility. You must also determine whether a more specific condition for assignment of a pending recovery is needed.

1. You must deduct only those amounts the applicant has already received and address pending recoveries by requiring an assignment.

2. When an insurance assignment is necessary, you must include in the LAA a condition requiring an assignment of any pending insurance proceeds.

3. There are also circumstances where an assignment of other types of recovery may be warranted. These may include, but are not limited to where the applicant has:

a. Initiated a claim or lawsuit related to the disaster loss or contractors malfeasance,

b. Been unable to execute a standard assignment on a forced place insurance policy because the lender is the sole insured, or

c. Been unable to execute a standard assignment on an insurance policy because the policy is in the name of a third party.

E. Determining the Final Eligible Loan Amount. After you make all required deductions from the SBA verified total loss in accordance with subparagraphs C and D above, you have determined the uncompensated physical loss. The following adjustments to determine the eligible physical loss:

1. Apply the landscaping limits;

2. Apply the legislative or administrative limits;

3. Add any eligible amount for necessary and appropriate additional protective devices or mitigation measures within the legislative limit; and

4. Add any amount of authorized refinancing within the legislative limit.

F. Lending for the Insurance Deductible Only. The provisions of this paragraph apply to any disaster whenever the applicant seeks a loan solely for the insurance deductible. Lending for the deductible avoids many time-consuming tasks without significantly increasing the risk of DOB.

1. When the insurance recovery amount is not known, you may lend the lesser of the insurance deductible or the eligible physical loss based on SBA's loss verification.

2. When the estimate of damage from the insurance recovery amount is known and exceeds SBA's damage verification (or reduces the uncompensated loss to an amount less than the insurance deductible), you may increase the eligible loan amount as appropriate, up to the amount of the deductible.

3. You should verify the amount of the deductible, either by phone with the insurance company or agent, or by requesting a copy of the declarations page of the policy from the applicant. If all attempts fail, you may accept the applicant's statement as to the amount of the deductible and you must issue a conditional commitment letter requesting a copy of the declaration page.

4. You will accept the insurance deductible amount as the eligible loan amount, subject to additional reductions for recovery from non-insurance sources.

5. If recoveries are received from sources other than insurance (e.g. FEMA, state grants, etc.), any such recoveries which create a DOB must be applied to reduce the deductible amount to determine the eligible loan amount.

6. Do not take assignments of insurance when the loan is for the deductible only.

For example: An applicant has a $50,000 loss and receives $52,000 of insurance but has a $5,000 deductible. The applicant also received a $1,000 grant from FEMA. The uncompensated loss based on the LV Report is $0. However, a deductible only loan allows a loan equal to the amount of the deductible less any other recoveries. In this example, the deductible amount of $5,000 less the grant of $1,000 produces an eligible loan amount of $4,000.

NOTE: If the applicant desires to borrow more than the deductible, the above does not apply, and you must perform the standard eligibility calculations.

CHAPTER 5

CREDIT

5.1. CREDIT INFORMATION

The overall credit of an applicant, including affiliates of businesses (when used for repayment of the loan), must be satisfactory prior to recommending a loan approval. For disaster lending purposes, satisfactory credit history is defined as a history that generally shows payments of creditors as agreed unless otherwise justified. You should consider the totality of circumstances affecting the overall credit of the applicant when evaluating credit. To determine satisfactory or unsatisfactory credit, you must have a thorough understanding of all variables that comprise overall credit history (see paragraphs 5.5, and 5.6).

5.2. CREDIT BUREAU REPORTS (CBR)

A. General Requirement: A CBR should be obtained for all individual applicants and business principals. If none is available a direct verification of credit references and other credit sources must be considered. Generally, a CBR and/or D&B must be obtained if the previous report is greater than 180 days old.

NOTE: We do not permit substituting credit checks on the owners of a business in lieu of checks on the business itself.

5.3. BUSINESS CREDIT REPORTS

All business and EIDL applications, including affiliates (when used in repayment of the loan), require a business credit report from Dun and Bradstreet (D&B) or a similar commercial credit reporting company with the exception of sole proprietorships. For sole proprietorships, the CBRs of the owners are usually sufficient. Although discretion to order D&B reports may be exercised when deemed necessary, D&B reports should rarely be ordered on sole proprietorships.

5.4. DISCUSSION OF CREDIT CONTENT WITH APPLICANTS

You can discuss CBR items which are not of public record, provided you do so in a responsible manner. However, your discussion should only address those current derogatory items and other accounts to the degree necessary to process the application. You must record all discussions in detail in the Comments Tab (Chron Log).

Any consumer loan applicant (home or personal property) who asks for a copy of the credit report will receive all credit reports contained in their case file. The Privacy Act requires that Federal agencies provide requestors with their credit reports if those reports are kept in a system of records. Any business loan applicant who asks for a copy of the credit report will be treated as a FOIA requestor, and will receive that report unless it is exempt from disclosure under FOIA.

5.5. ADVERSE CREDIT HISTORY

You must give applicants with adverse credit history every opportunity to provide explanations before you reach a conclusion about their overall credit worthiness. Generally, a history that consists of minor, isolated instances of adverse credit or late payments is acceptable. Major instances of adverse credit such as unpaid judgments, repossessions, previous foreclosures, charge-offs, and unpaid collections can be overcome provided:

A. The applicant explains the lapse; and

B. The applicant has other accounts with "as agreed" payment records.

For purposes of evaluating adverse information found on an applicant's CBR, the information should be considered within the totality of circumstances; for example, financial difficulties caused by one-time situations such as divorce, job loss, serious medical illness, etc.

NOTE: An applicant's adverse credit history *cannot* be overcome by the credit history of a guarantor.

NOTE: You cannot recommend approval if you determine that the credit history is unsatisfactory.

5.6. LACK OF CREDIT HISTORY AND DIRECT CHECKS

You must explore and identify the reasons for a lack of credit history when making credit judgments. You cannot simply judge applicants without credit cards, charge accounts, or other forms of electronic credit histories to have satisfactory or unsatisfactory credit. If CBRs are not available, you should perform direct credit checks with banks and/or other sources or obtain credit documentation from the applicant. Applicants who do not have credit cards or bank loans can demonstrate satisfactory credit by showing a history of making regular, noncredit payments (e.g., utilities, rent, insurance, medical, or dental bills, etc.) in an agreed manner. You must justify these decisions in your case file. Applicants who have no verifiable credit should not automatically be deemed as unsatisfactory.

NOTE: You should include the wording contained in Appendix 14 a, in every SBA letter which requests credit information from a financial institution: (See Appendix 14):

5.7. PRIOR OR EXISTING SBA LOAN HISTORY

If the application indicates previous or existing SBA loan experience, or if you discover SBA financing through other sources such as the Agency's records, you should determine if the performance is or was satisfactory based on the Agency's electronic records or contact with the servicing office, if necessary.

A. You do not need to call the servicing office if:

1. The Agency's records reflect no history of delinquency (delinquency being a payment more than 30 days past due), or returned (NSF) checks; and

2. The damaged or collateral property is not in an SFHA; or

3. The loan has been sold to a third party.

B. If the loan has been sold to a third party, the Agency's records will not reflect the loan performance after the date of sales. In these situations, you must document the following in the case file:

1. Indicate that the loan has been sold including the date of the sale;

2. Address the pre-sale history;

3. Address the post-sale payment history based on CBR, 5C, or other case file information, if circumstances warrant; and

4. Address the borrower's conformance with any insurance or other special conditions. You should determine these conditions using available case file information.

C. Prior SBA Loan Discharged in Bankruptcy. Applicants who had a prior SBA loan discharged in bankruptcy are not automatically barred from receiving disaster loan assistance.

NOTE: You should allow the applicant/borrower an opportunity to explain the circumstances leading to any adverse performance on SBA loan and consider the totality of those circumstances when evaluating its impact on the credit decision.

5.8. BANKRUPTCY OR REORGANIZATION

Applicants (home or business) who have previously filed for bankruptcy, or are currently in the process of reorganization are not automatically precluded from receiving assistance. Some of the factors which have impact on the overall evaluation and which should be considered is the type of bankruptcy filing, when it occurred, the details of the reorganization plan, the plan's success or failure, and subsequent disposition.

A. Chapter 7 Bankruptcy (Liquidation). We do not automatically disqualify applicants discharged in prior Chapter 7 bankruptcies. The effect on the credit decision generally depends on the circumstances. The older the discharge, the less effect it may have on the credit decision. You can recommend approval for applicants discharged in bankruptcy within the last two years if you document the following in the case file:

1. The bankruptcy was caused by circumstances beyond the applicant's control (e.g., unemployment, prolonged illness, medical bills not covered by insurance, protracted labor strikes, disaster-related, etc.) as opposed to bankruptcy caused by the applicant's actions (e.g., misconduct, avoidance of creditors, careless overextension of debt, etc.); and

2. The applicant's credit history since the bankruptcy is satisfactory; and

3. The applicant has repayment ability despite the circumstances surrounding the bankruptcy.

NOTE: Use caution in cases of self-employed applicants whose bankruptcy occurred during previous self-employment or applicants whose current employment is not stable.

B. Chapter 13 Reorganization (Wage Earner's Plan).

1. A Wage Earner's Plan (WEP) applies to individuals and indicates some effort to pay certain creditors. A WEP can make it possible to settle debts for only a portion of what is owed, while retaining personal assets. The maximum term permitted for a WEP is five years and once approved, the wage earner can incur additional debt only with permission from the court. Generally, the court will not approve additional credit unless the purpose is vital to the well-being of the wage earner or family members.

2. You can recommend approval if:

a. The applicant has made all payments on the WEP in a satisfactory manner, based on direct contact with the Trustee, online contact information sources, or other sources; and

b. Total debt service is reasonable, and,

c. A written approval from Bankruptcy Trustee/Court is a condition of the LAA.

C. Business Reorganization (Chapter 11). Businesses may be in one of many different stages of the Chapter 11 filing procedure. This can impact our ability to approve, or even process the application. Therefore, you must discuss these cases with counsel before you begin and follow their advice for any legal impact to the validity of the plan. You should discuss:

1. Whether a plan was filed with the Bankruptcy Court;

2. If the Court accepted the plan;

3. Whether the business is following the plan;

4. How much time remains before the business will emerge from the plan; and

5. If the Court will consider allowing the applicant to incur additional debt outside of the plan.

5.9. DELINQUECY ON FEDERAL OBLIGATIONS

"Federal obligations" include, but are not limited to: any direct Federal loans, contracts, and/or grants; and debts owed to the IRS, etc. If a Federal obligation is delinquent and a judgment lien

for that debt has been filed against the property of the applicant we can approve a loan only under the following circumstances:

A. When the delinquency on a debt resulting in a lien is caused by the disaster itself, we have the authority to waive the restriction. This applies whether the debt pre-existed the disaster, or was the result of the disaster. Because we do not provide funds to pay another Federal creditor, make sure workout arrangements with the Federal creditor are in place prior to an approval.

B. A debtor who has a judgment lien and made arrangements before the disaster to satisfy the debt, and whose adherence to those arrangements before the disaster was satisfactory is eligible. We must obtain confirmation from the creditor agency that the pre-disaster agreement was being satisfactorily honored. The AA/DA or higher must approve these exceptions or waivers.

5.10. DELINQUENCY ON FEDERAL OBLIGATIONS WITH NO JUDGMENT LIEN

Applicants who are delinquent on a Federal obligation without a resulting judgment lien are not automatically barred from receiving disaster assistance. You should allow the applicant an opportunity to explain the circumstances leading to delinquency and consider the totality of those circumstances when evaluating its impact on the credit decision and repayment ability.

5.11. CREDIT COUNSELLING SERVICES

Consumers that experience difficulty managing and controlling their debt load occasionally seek the services of credit counselors. Organizations such as Consumer Credit Counseling Services (CCCS) and similar non-profit agencies are able to negotiate with their creditors to compromise balances, reduce fees and lower interest rates. If the foregoing information is not evident on the CBR, you should contact the applicant to obtain the documentation or perform a direct check with the credit counseling service.

If an applicant is making satisfactory payments on a consumer credit counseling plan the mere existence of credit counselling should not automatically disqualify the applicant. However, if the payment history is unsatisfactory, it should be judged with other credit and considered within the totality of circumstances.

5.12. MORTGAGE MODIFICATIONS

Mortgage modification programs, work with lenders to lower the borrower's monthly mortgage payments and avoid foreclosure. If the CBR shows the applicant's mortgage on the damaged property is delinquent and the applicant in the process of modifying the mortgage, you cannot approve the loan until you confirm with the lender that the modification is complete.

5.13. LAWSUITS AGAINST THE APPLICANT

You must obtain complete details of any lawsuit pending against the applicant and determine whether an adverse judgment would negatively affect repayment ability. In considering the

applicant's exposure, you should determine whether the applicant has an independent ability to pay a potential judgment (or settlement).

If the amount of the lawsuit is known and does not impact repayment ability no legal review is required. When the amount is unknown or the potential exposure exceeds the applicant's ability to pay a judgment (or settlement), you must consult a Supervisory Attorney Advisor regarding the existing or potential impact to approval.

5.14. CHILD SUPPORT

Federal law prohibits SBA from approving a disaster loan to an applicant who is more than sixty (60) days delinquent on child support obligations. These obligations include administrative orders, court orders, and repayment agreements requiring the payment of child support. An applicant that is current on an agreement to pay back child support is not considered delinquent. However, the reason for the back child support should be evaluated with the applicant's overall credit history and documented in the case file (see paragraph 3.3 C 2 for exception).

CHAPTER 6

REPAYMENT ABILITY

6.1. DOCUMENTING INCOME AND REPAYMENT ABILITY

Standard Processing:

Cash flow, not collateral, is the basis for establishing repayment ability when using standard processing (for RAPID processing, see paragraph 6.2 and Appendix 10). We must have reasonable assurance of an applicant's ability to repay any proposed loan. For home loans using standard processing procedures, we determine this by the Fixed Debt Method.

For business loans using standard processing procedures, we determine repayment ability by the results of the financial analysis performed on the business, guarantors, and the principals.

A. Documenting Repayment Ability.

In determining repayment ability, you must consider all sources of income to assure that income is continuing. You should examine the applicant's occupation, opportunity for future advancement, education, professional (occupational) training, length of employment, etc., and consider the following:

1. You cannot consider age when determining repayment ability. However, you must consider future income reductions when the applicant advises of their pending retirement.

2. You may consider part-time employment (e.g., a worker for various temporary employment agencies) as continuing income if it occurs year after year at similar levels.

3. You may consider seasonal employment (e.g., construction, oil fields, etc.) as continuing income if applicants work full-time (on a seasonal basis) with the same or various employers. You may consider unemployment compensation as continuing income if it is recurring and received in conjunction with seasonal employment.

B. Sources of Income.

1. Salaries and Wage Income:

The applicant’s FTR data, obtained directly from IRS, is our primary source of income documentation. If the applicant has changed employment within the last two years, you must verify employment (recent paystub, direct check, W2, etc.) and document current income in the case file (unless the tax transcript reflects a full year of employment).

NOTE: In areas that do not use FTRs, such as commonwealths, territories, or U.S. possessions, we require comparable documentation (see state specific guidance).

2. Social Security Income:

Social Security benefits which are long term in nature may be used. If you know the benefits are of short duration, exclude them from gross income without written confirmation.

a. FTRs may be used for verification when benefits are reported to the IRS.

b. In many cases, recipients are not required to report social security on FTRs, even if FTRs are filed for other reasons.

(1) When the applicant is of retirement age, as determined by the Social Security Administration, the benefit amount disclosed on the application may be used without further verification.

(2) If the applicant is NOT of retirement age but receives disability, dependent, or other benefits, written verification (e.g. copy of award letter) is needed to determine the amount, beneficiary, and duration of benefits.

3. Pensions and Similar Retirement Income.

FTRs generally disclose the distribution of pensions, annuities, IRA, and 401(K) distributions, etc. However, if the applicant's taxable income is below the minimum level required to file an FTR and the applicant is of retirement age, no separate documentation is necessary.

4. Self-Employment Income.

a. Home Loans. You are typically not required to obtain tax transcripts for a business entity owned by a home loan applicant. You may use the information reported on the applicant's personal tax transcript as documentation for the entities income. However, you may request additional information such as a hard copy of the Schedule C or E or the business FTRs when appropriate to overcome a repayment decline.

b. Business Loans. You must review the business FTR and other information to determine the continuing income from the business. On a case-by-case basis, you may need additional information such as, current financial statements, a forecast, deposit records, etc., if the FTRs are not current or representative of present operations.

(1) You should consider the impact of non-cash and non-recurring items on cash flow (depreciation, duplicated interest and other similar items).

(2) You should consider trends if income fluctuates from year to

year. In determining trends, you should analyze 3 years of operations and identify if it is upward, downward, stable, fluctuating or undetermined (there is a lack of historical data to define the trend). The case file should be documented to support your analysis of the trend.

5. Other Income.

a. You may consider overtime pay and bonuses as continuing income if the applicant confirms the income is consistent and recurring.

b. You may consider interest and dividend income continuing if the amounts stated on the application generally reconcile to FTR data and the financial information provided in the application.

c. You may consider the income from notes receivable and seller-financed mortgages by determining the income duration and the principal portion (if any). When the income is not supported by the FTR data, you should obtain copies of the note or other documentation.

d. Applicants in the military services, and certain other applicants, may be entitled to different types of pay in addition to their base pay (e.g., flight or hazard pay, allowance for rations, clothing, quarters, car, etc.). You can consider this income by documenting the case file.

e. You may consider alimony and child support income if it is properly documented and continuing.

NOTE: Child support, alimony, and separate maintenance, income can only be considered if disclosed by the applicant for repayment ability.

f. You may consider nontaxable income, such as tax-free bonds, if properly documented.

6. Reconciliation of Income to Application.

Financial information reported on the application should be consistent with FTRs or other verified sources. If there is a substantial discrepancy between the reported (in the application package) and verified income, you must determine the correct amount and justify it in the case file. You should generally use the income reported on the FTRs if applicants cannot provide a satisfactory explanation for the variance.

6.2. RAPID PROCESSING

Individuals or entities which have been determined to have strong credit will be processed under RAPID underwriting guidelines (See Appendix11). Under RAPID, the Loan Officer is responsible for addressing all standard eligibility requirements such as primary residence, ownership, and qualified business determination, delinquent child support, federal debt, character

requirements. For home loans, the maximum loan amount is $240,000 and is dependent upon a minimum personal credit score combined with verified income. For business loans, the maximum loan amount is $350,000 (physical and/or economic injury) and is dependent upon a minimum personal or business credit score and verified income.

Refinancing, relocation and mitigation are not eligible to be processed under RAPID.

Individuals or entities which do not meet the RAPID criteria will be processed under the standard processing methods.

6.3. OBTAINING IRS TRANSCRIPTS

SBA requires all applicants submit an executed IRS Form 8821/4506-T "Tax Information Authorization" with the disaster loan application. IRS Form 8821/4506-T allows SBA to obtain transcripts of Federal income tax returns, as well as confirm the status of delinquent federal taxes, verify payment and existence of workout agreements, verify tax liens, and obtain other specific tax-related information.

NOTE: You should request 2 years of transcripts for home loan applicants and 3 years for business loan applicants.

6.4. CONFLICTING FTR INFORMATION

If the applicant provides an FTR that differs substantially from the IRS transcript, report the differences immediately to the OIG (see paragraph 1.9).

6.5. THE HOME FIXED DEBT METHOD (FDM)

A. General Rule.

Disaster loans are unplanned debts, and create neither an increase in assets nor an improvement in lifestyle. Because disaster loans repair/replace existing property, applicants pay twice to maintain those assets. Although replacing disaster damaged property is our mission, the nature and purpose of the debt does not affect the fact that there is a certain maximum level of debt that is reasonable. The FDM is a lending concept based on guidelines used by the mortgage banking industry. The FDM assumes:

1. There is a debt level expressed as a percentage of gross income, one can afford. This is known as the Maximum Acceptable Fixed Debt (MAFD);

2. If the maximum debt level is not exceeded, the balance of gross income can pay taxes and ordinary and necessary living expenses; and

3. Once the maximum debt level is exceeded the risk of default increases

B. FDM Calculation.

1. The FDM formula is:

GMI x MAFD percent = MAFD
MAFD - MFD = CA

2. Definitions.

a. GMI (Gross Monthly Income). Gross annual income divided by 12.

b. MAFD Percent (Maximum Acceptable Fixed Debt Percentage). The percentage of income which generally can be allocated for fixed debts (housing, installment and car loans, credit card or revolving charge accounts, certain extraordinary continuing expenses) without incurring an increased risk.

Living expenses are not considered part of fixed debt. They are included in the portion of gross income remaining after subtracting MAFD.

For SBA disaster loan purposes, the standard MAFD percent is 36 percent for GAI of $25,000 or less and 40 percent for GAI above $25,000.

c. MAFD (Maximum Acceptable Fixed Debt). The result of the GMI x MAFD percent calculation, expressed in dollars. This amount usually represents a ceiling at which point the applicant can incur no more fixed debt without an increased risk.

d. MFD (Monthly Fixed Debt). The greater of: the total amount of all continuing fixed obligations (exclusive of living expenses), or 25 percent of GMI.

e. CA (Cash Available For Additional Fixed Debt). The remainder after deducting MFD from MAFD.

f. One-third of CA. The target payment for the disaster loan.

C. Components of Monthly Fixed Debt (MFD)

1. House payment (PITI) or rent includes:

a. Rent and renter's insurance.

b. Mortgage payments (principal, interest, taxes, and insurance) on all non-business RE owned (business mortgage payments are addressed separately as business fixed debt). If there is no mortgage payment, include RE taxes and insurance.

c. Payments on contracts to purchase (includes land sale contracts, contracts for deed, etc.) and any associated taxes and insurance.

d. Condominium, Homeowner, or other Association fees.

e. Manufactured home installment payment (principal, interest, taxes and insurance); lot or space rent.

f. Existing insurance premium, if not included in the mortgage payment (e.g., flood, earthquake, etc.).

2. Fixed debt payments include:

a. Any fixed debt with a balance equal to 10 or more monthly installments.

(1) You should not include payments with fewer than 10 monthly installments unless you confirm their continuance. For example, if a car loan pays out in less than 10 months, you can only retain the payment if the applicant confirms their intent to replace the vehicle.

(2) You should not include payments for non-existing debt unless you confirm the applicant's intent. For example, you should not include a replacement vehicle payment, even if the current vehicle is old, unless the applicant confirms they are buying one; provides some detail on the year, make, and model; and approximates the installment amount

b. Student Loans which may be in a deferred status. If you see there are student loans on the SBA application or credit bureau report that are in a deferred status and/or the payment is not disclosed or is unknown, you must call the applicant and discuss the payment amount. If the applicant does not know what the payment is, you must use one (1) percent of the original balance for the scheduled payment. Example: $15,000 original balance with no payment indicated, you will use $150 as the projected payment.

NOTE: Pay stubs may also be a source of debt information (e.g., payroll deducted loans, child support, garnishments, etc.)

c. Payments on business fixed debt are not components of MFD.

d. Credit card and other revolving charge accounts. If the application or CBR does not indicate a monthly payment, you must:

(1) Contact the applicant and use the required minimum monthly payment on the current balance; or

(2) Use the greatest of 3 percent of the balance or $20 if you cannot make contact.

(3) If applicants state they pay credit card balances in full every month, you can exclude those payments from MFD provided:

(a) The amounts they say are paid in full each month are realistic given their overall financial condition; and

(b) Your case file includes justification.

e. Extraordinary continuing expenses. You should address this category and only include expenses/obligations if they are:

(1) Significant (unusually large in proportions to the applicant's income); and

(2) Continuing (for at least 10 months); and

(3) Mandatory (not discretionary and exclusive of items ordinarily treated as living expenses.) Examples include:

(a) Extraordinary medical expenses (e.g., dialysis, prescribed physical or rehabilitation therapy not covered by insurance);

(b) Extraordinary tuition expenses required by physical/mental disabilities;

(c) Child/dependent care;

(d) Alimony if disclosed on the FTR; and

(e) Child support.

(4) After a discussion with the applicant you may determine that the following may or may not be considered extraordinary expenses:

(a) Ordinary medical expenses (including medical insurance); and

(b) Tuition for schools and colleges (basic educational expenses).

D. Effects of living expenses on FDM. Living expenses do not affect the calculation of repayment ability under the FDM. They are included in the portion of gross income remaining after subtracting the MAFD. The FDM assumes applicants will adjust their living expenses to meet unusual obligations.

E. Using the Fixed Debt Method to Determine Repayment Ability.

1. General Rule. Using the FDM, review the applicant's income and debts to establish a maximum debt level and target loan payment that leaves sufficient cash available to meet necessary living expenses and support repayment of additional debt. The remaining cash available will determine the applicant's ability to repay additional debt. If the standard FDM calculation results in positive CA and the loan can be amortized within the standard loan term, the result will be used to determine the loan terms. You set the monthly payment at one-third CA, provided it amortizes the loan within 30 years using the standard

deferment. Otherwise you write a 30 year term and set the payment up to 100 percent of CA.

a. If the standard FDM calculation results in positive CA, but will not amortize the loan within 30 years, you should consider additional options, such as raising the standard MAFD % (see subparagraph F below).

b. If CA is negative after considering all additional options, the applicant is unlikely to be able to repay additional debt, and must be declined for lack of repayment ability.

c. If the applicant requests a payment greater than 1/3 CA. You may grant this request if:

(1) The payment does not exceed 100 percent of CA; and the case file clearly indicates it was at the applicant's request.

d. If the applicant requests payment less than 1/3 of CA. You may set the payment below 1/3 CA only in cases of no credit elsewhere and

(1) Relatively low, fixed retirement, permanent disability, or similar income; or

(2) Relatively low income (income is expected to remain low) where there is also a clear need to devote a large share of the income to living expenses (such as for a large number of dependents or to support known unusually heavy expenses); or

(3) Low income and low fixed debt with an anticipation that necessary fixed debt will materially increase.

Your case file must justify setting a payment below 1/3 CA.

e. Adding $50 to the Payment. Sometimes, the general rule establishes a payment, which is less than practical for the applicant's financial condition (e.g., small loans or loans to applicants with high income). In these cases, use your discretion in setting the terms. Within the standard CA, you can add up to $50 per month to the payment to help shorten the maturity, but not merely to avoid small payment amounts. You must obtain the applicant's consent and record the conversation in the comments section.

f. If the applicant requests a lesser loan amount. In this instance you need to recalculate the payment based on 1/3 CA.

F. Determination of Repayment Ability When Exceeding the Standard MAFD Percentage.

Some applicants may be able to carry debt in excess of the standard MAFD percentage indicated by the standard FDM calculation. You must make this determination on a case-by-case basis.

1. Generally, we do not consider applicants with gross annual income less than $25,000 to be able to carry monthly fixed debt in excess of 36 percent. Raising the MAFD for applicants with incomes of $25,000 or less should be rare.

2. Some applicants may be able to carry more than the recommended standard percent MAFD for their income level. You must make this determination on a case-by-case basis, and justify any recommendation in the Loan Officer's repayment analysis in the case file. When a recommended loan requires the applicant to carry more than standard recommended percent of MAFD it must be fully justified in the file prior to final signoff. No further concurrence is required for this reason.

   a. When an applicant has satisfactory credit, a written justification is not required when increasing the standard MAFD for the following levels:

      (1) 45 percent for GAI of $45,000 but less than $60,000

      (2) 50 percent for GAI of $60,000 or more.

3. The applicant must have satisfactory credit history for any consideration of increased MAFD percent. You can justify exceeding the standard MAFD percentage based on the following:

   a. <u>High Income and Relatively Low Living Expenses</u>.

      You must justify high income and low living expenses. You cannot use this justification unless both of these factors are present.

   b. <u>Future Income Prospects</u>.

      This applies only to:

      (1) Applicants whose earnings in their occupational field or industry are rapidly increasing (e.g., a doctor who at the time of the disaster was in the first few years of a medical practice); or

      (2) Applicants with excellent prospects for substantial future income increases (e.g., a skilled tradesperson such as apprentice plumber who can reasonably expect to get a journeyman's license shortly).

   c. <u>Demonstrated Ability to Handle Debt</u>.

      You can justify exceeding the standard MAFD percentage if the applicant has demonstrated the ability to devote a greater part of income to monthly fixed debts. You cannot exceed the historically demonstrated level using this justification.

      For example, assume an applicant demonstrated the ability to handle 54 percent MAFD. If the MAFD percentage after the SBA loan (with or

without refinancing) exceeds 54 percent, you cannot use this justification.

d. Accumulation of Sizeable Net Worth.

You can justify exceeding the standard MAFD percentage if the applicant has accumulated sizeable net worth and maintained a good credit history.

For this purpose, "sizeable net worth" means tangible net worth equal to or greater than 1 year salary based on current and foreseeable annual income.

NOTE: The justifications in this subparagraph may "stand alone." You may use other justifications(s), provided they are relevant to the analysis and fully documented in the case file.

G. Loan Officer's Discretion.

The FDM is a guideline to help you determine repayment ability and terms for home loans. You must exercise your credit analysis skills, use discretion, and evaluate all information. Only your reasoned and thorough analysis of all relevant facts can help balance between protection of the Agency's interest and sympathetic consideration of the applicant's needs.

6.6 DOCUMENTING REPAYMENT ABILITY ON A BUSINESS/EI LOAN

A. General Rule.

Disaster business loans assist the disaster survivor in recovering from unforeseen obligations that repair/replace disaster damaged assets and provide working capital loss due to the disaster. The repayment of a disaster business loan is determined based on a financial analysis performed on the applicant business and guarantors with the resulting analysis combined into the Cash Available to Service Additional Debt (CASAD) Summary.

B. CASAD Summary Formula.

Applicant(s) + Guarantors (Individuals + Businesses) = Total CASAD

C. Components of CASAD Summary.

1. Businesses Worksheet – a separate CASAD worksheet should be completed for the applicant entity (or entities) and all guarantors (including both individuals and affiliates).

2. Individuals Worksheet – a separate CASAD worksheet should be completed for each principal that will guarantee the loan. If spouses are guarantors, a combined worksheet may be used for both spouses. The definitions used on this worksheet are:

a. GAI (Gross Adjusted Income). Gross adjusted income as taken from the FTR.

b. Debt. The total amount of all continuing personal and business fixed obligations (not reflected on the Business worksheets).

c. FA (Funds Available). The remaining funds after deducting debt from the modified GAI.

d. ALE Percent (Allowed for Living Expense percentage). The percentage of income (after deducting debts) to be used for living expenses and to pay income taxes. The standard percentage is twenty-five (25%). If 25% ALE fails to provide repayment ability, you must justify the use of less than 25% ALE in the analysis, and the loan officer must include personal income taxes in the Debt section.

e. ALE (Allowed for Living Expense). This is the product of FA multiplied by the ALE % and the funds remaining for living expenses and to pay income taxes.

f. CASAD (Cash Available to Service Additional Debt). The product of FA minus ALE.

D. Generally, the calculated Total CASAD is used to establish a target loan payment that leaves sufficient cash available to support interest payment on unscheduled debts.

CHAPTER 7

LOAN DECISION

7.1. AUTHORITY TO APPROVE, DECLINE, WITHDRAW, OR MODIFY LOAN APPLICATIONS

SBA offers five types of disaster loans: Home, Business/EIDL (B/E), Non-profit, Stand Alone EIDL, Military Reserve EIDL (MREIDL). Recommendations to approve, decline, or withdraw an application are the responsibility of the processing Loan Officer based on delegated responsibility.

A. Rule of Two. Loan recommendations require concurrence between the LO and SLO.

1. When the SLO who has the authority to take the final action does not agree with the Loan Officer's recommendation, the SLO must prepare their recommendation and justifications and forward the file to ACDAP for a decision.

2. The exceptions occur when DCMS makes the decision based on business rules for initial Auto-Decline, Pre-Loss Verification (Pre-LV), and Summary Decline review. An SLO, Program Support Specialist, and Program Support Supervisor, Pre-Processing Specialist reviewing Pre-LV and Summary declines can override the automated decision and route the case file for regular processing without obtaining the next higher level of authority (See Appendix16).

3. Certain loan modification actions do not require concurrence. Please refer to paragraph 8.1 B for a complete list.

B. General Limits on Loan Approval Authority.

1. Authority to Approve Loans (for any applicant and its affiliates for a single disaster).

a. SLOs may approve all disaster loans up to and including $750,000, and subsequent loan modifications that cause the total loan amount to increase up to and including $750,000, based on their level of delegated authority as indicated below.

(1) SLO 1 may approve all Home loan actions.

(2) SLO 2 or 3 may approve all Home, B/E (all phases), Non-profit, Stand Alone EIDL, MREIDL, and PDMLP loan actions.

b. ACDAP is required to take the final action on the following:

(1) Any loan which approves a request for appeal of reconsideration;

(2) Any loan approved with a loan amount in excess of $750,000, up to and including $1 million;

(3) Any loan approved which justifies approval of a loan to a borrower with a federal judgment lien.

(4) Please see paragraph 7.10 G 3 for sign off authority on first payment due date.

c. CD/PDC is required to take the final action on the following:

(1) Any loan which requires a formal size determination;

(2) Any loan to a home or business in which the borrower is a SBA employee who is determined to have no conflict of interest;

(3) Any loan which approves disaster mitigation in an amount greater than $50,000 up to and including $100,000 on home loans and $50,000 up to and including $200,000 on business loans;

(4) Any loan allowing a business other than a sole proprietorship which has a principal holding an ownership interest greater than 50% who is more than 60 days delinquent on child support and who divested their interest in the business.

(5) Please see paragraph 7.10 G 3 for sign off authority on first payment due date.

d. AA/DA has the authority to take the final action on the following:

(1) Any loan in excess of $1 million and subsequent loan modifications that cause the total loan amount to exceed $1 million;

(2) Any loan in which a Member of the United States Congress holds an ownership interest (see paragraph 3.4 L. for eligibility requirements);

(3) Any loan when the approved mitigation is in excess of $100,000 on home loans and in excess of $200,000 on business loans.

(4) Please see paragraph 7.10 G 3 for sign off authority on first payment due date.

2. Loans to SBA Employees, SCORE, and Advisory Council Members. Applications from these individuals or members of their household may be accepted and processed without a review by the Standards of Conduct Committee as follows.

a. Home Loans.

(1) When there is no apparent conflict of interest, the CD/PDC may approve or decline these applications, In the case of an approval, the CD/PDC should notify the appropriate SBA program or office manager (s) of the action.

(2) Where the CD/PDC believes the appearance of a conflict of interest may exist, and in all cases where the applicant is a disaster employee or a member of the employee's household, the case file must be forwarded to ODA for final action. Only the AA/DA can approve or decline these applications.

b. Business Loans. Only the AA/DA can approve or decline these applications.

3. Check endorsement authority rests with the CD/PDC or ACDAP.

C. Paragraph 8.1 B specifies the authority required for loan modifications.

D. Approval and disbursement of disaster loans are subject to availability of funds.

7.2. LOAN PROCESSING ROLES AND RESPONSIBILITIES

Loan Processing functions are completed by employees performing their duties as Loan Officer (LO) and Supervisory Loan Officer (SLO).

A. LO Responsibilities: In general, an LO is a loan specialist/loan assistant assigned to process loan applications and modification requests.

B. SLO Responsibilities: In general, an SLO is a loan specialist/loan assistant delegated to act as a team leader for a group of Loan Officers and to review the work performed by an LO.

7.3. COMPANION AND ASSOCIATED FILES

A. Companion Case Files. Multiple home (primary and extended family), business and/or EIDL loan applications received from the same applicant (and/or any related entities, affiliates, or business principals) for a single disaster event are companion files and should be identified as such in DCMS. Because the applicable loan terms may vary, generally they must be processed as separate case files. However, the same LO should process companion case files when possible to ensure consistency in the analysis and decision.

We must make separate loans to:

1. An applicant who suffers both home and business damage;

Exception: An applicant who operates a business from a home office or has tools of the trade stored in the primary residence should not be required to file a separate business application if the business area is shared with the living space.

SBA may include the losses to a home business which is in the living space of the residence under a home application. However, the applicant may choose to file a separate application if the home loan limits would prevent the applicant from obtaining sufficient loan funds for a full recovery.

2. Affiliates of business loan applicants who file for physical damage and/or economic injury;

   Exception: We can consolidate applications from business concerns with identical ownership into a single case file (see paragraph 7.24 A 3.).

3. Additional loan application(s) for the same disaster event may be received under a different declaration for damaged properties located in adjacent states. These files are companions.

B. Associated Case File(s). Applications received from the same applicant for separate disaster events are not companions. Additionally, a different applicant may file an application which is not a companion, but shares a common location or other factors of which you should be aware (roommates in a rental unit, individual units in an association, etc.). SBA designates these as associated files.

1. If an associated application is pending, the same LO should process associated case files when possible.

2. The AA/DA may, for specified disasters, allow consolidation of associated applications from the same applicant for back-to-back disasters. This may occur when it is too difficult to differentiate the damage from one disaster to the next and/or there was insufficient time to make repairs from the first disaster before a subsequent disaster occurs.

7.4. TELEPHONE CONTACT UPON COMPLETION OF PROCESSING

After completing the analysis, you must inform the applicant(s) of the possible action. Advise them that no decision is final until they receive it in writing. You are authorized to discuss the proposed terms or reasons for the proposed action only with the individuals named on the application, or their named representatives. Under no circumstances are you permitted to leave this information on voicemail or with any unauthorized third party. If you cannot reach the applicant by phone, document your attempt(s) to contact in the Comment Tab (Chron Log) and forward the case file for review.

A. Approval Recommendation.

1. You must inform the applicant of all proposed terms and conditions. Generally, they would include the following:

   a. Terms include the loan amount, interest rate, installment payment, loan maturity, net earnings clause (if any), and initial due date.

   b. Conditions include, at a minimum: collateral, including the address of the property being used; guarantors, use of proceeds, insurance

requirements/assignments, how we arrived at the loan amount and that the amount may change based on receipt of insurance, grants, etc. considered to be duplication of the benefits, loan closing deadline, disbursement period, custom conditions, etc.

2. You must also ask whether the applicant has any questions. This practice avoids applicant confusion and maintains Agency credibility. Exercise care when responding to questions concerning areas with which you are not completely familiar. In these cases, tell the applicant you will seek supervisory guidance and promptly call them back.

3. If an approval recommendation is contingent upon a “conditional commitment letter", you must inform the applicant of required documentation. Also, advise the applicant that a representative from the Accounts Department will call to follow up (see paragraphs 7.21).

B. Decline Recommendation. You must inform the applicant of the reason(s) for the proposed decline action and the right to request reconsideration.

NOTE: This does not pertain to Summary Declines or Auto Declines.

C. Withdrawal Recommendation. You must inform the applicant of the reasons for the proposed withdrawal action and advise of their right to request reacceptance.

LOAN APPROVAL

7.5. LOAN AMOUNTS

The disaster loan program’s loan limits are a combination of statutory and regulatory requirements. The administrative limit applies to the combined total amount of all home loans to any one applicant for any one disaster. Members of a single household (e.g., husband, wife, and dependents) cannot make separate applications for the purpose of exceeding the administrative limit.

A. Limits on Home Loan Amounts.

1. For real estate (RE) damage, the limit is $200,000. Real estate damage includes all physical damage to a primary residence and appurtenant structures, landscaping, land and land improvements, relocation costs, and permissible upgrading.

2. For personal property (PP) damage, the limit is $40,000. Personal Property includes all household contents of the primary residence and eligible vehicles.

3. For mitigation measures, the limit is 20 percent of the verified loss for physical damage (both real estate and personal property damage), up to a maximum of $200,000.

4. For refinancing, the limit is the eligible physical loss up to $200,000.

5. The maximum amount of a disaster home loan for a SINGLE disaster is $640,000.

B. Business Loan Amount. The maximum amount of any business loan (physical and EIDL) is $2,000,000. This statutory limit applies to the combined total amount of all loans to any one applicant, including its affiliates, for any one disaster event and includes the provision for increasing a loan for hazard mitigation measures. SBA can authorize an exception to this legislative limit if the applicant is a major source of employment (MSE) (see paragraph 7.6).

C. Disaster Loan Limit for Combined Home and Business Loans. If a business (not an MSE) has eligible losses of $2,000,000 and its principal owner(s) has home losses, the following limits apply.

1. A business organized as a corporation, a subchapter S corporation, a limited liability entity (LLE), a general partnership or a limited partnership, etc., is a separate legal entity and the principal(s) have full home loan eligibility regardless of the amount of the business loan. For example: A corporation has eligible losses of $2,000,000. The corporation is owned by two individuals, each with a 50 percent interest. Both 50 percent owners are eligible to apply for damages to their respective primary residences up to the maximum administrative home limits.

2. A business operated as a sole proprietorship is not a separate legal entity and we must aggregate the losses to the maximum (non-MSE) loan limit for a single disaster of $2,000,000. However, the home loan cannot exceed the administrative limits. For example: A sole proprietorship has eligible losses of $1,950,000. The primary residence of the sole proprietor is also damaged. Because the two are not separate legal entities, the combined maximum legislative loan limit for one disaster is $2,000,000. Therefore, the home loan application could not be approved for more than $50,000.

D. Economic Injury Loan Amount.

The legislative limit of $2,000,000 on disaster business loans applies to EIDLs. The limit applies to the total of all direct physical and economic injury disaster loans approved to any one borrower and its affiliates for any one disaster.

7.6. MAJOR SOURCE OF EMPLOYMENT WAIVER OF LENDING LIMIT

SBA may waive the $2,000,000 legislative limit if a business is a MSE. This is to foster employment of large numbers of people in a disaster-impacted community.

A. Major Source Of Employment (MSE) Eligibility. Any business may be eligible for MSE status if it at the time of the disaster commences, it has one or more locations in the disaster area (see exception below for MREIDL), which locations individually, or in the aggregate:

1. Employed 10 percent or more of the entire work force within the commuting area of a geographically identifiable community, no larger than a county; provided

that the commuting area does not extend more than 50 miles from such community; or

2. Employed 5 percent or more of the work force in an industry within the disaster area and, if the concern is a nonmanufacturing concern, employed no less than 50 employees in the disaster area or, if the concern is a manufacturing concern, employed no less than 150 employees in the disaster area; or

3. Employed no less than 250 employees within the disaster area.

NOTE: You must aggregate employees of concerns sharing common business premises to determine MSE status of a non-profit applicant owning the premises.

EXCEPTION for MREIDL: May be eligible for MSE status if it at the time of the disaster commences or subsequent to the disaster as a result of changed economic circumstances. If eligibility is established based on post disaster economic changes the applicant must provide a statement explaining the changed economic circumstances that would justify status as an MSE. If the applicant business has more than one location, all locations are presumed to be located within the disaster area. See A 1-3 of this subparagraph (above) to determine MSE eligibility.

B. Discretion to Waive Legislative Loan Limit. SBA may waive the $2,000,000 limit if:

1. The damaged location(s) of the MSE are out of business or in imminent danger of going out of business as a result of the disaster and the waiver is necessary to permit the location(s) to reopen or stay open in order to avoid substantial unemployment in the disaster area; and

2. The applicant has used all funds from its own resources and all available credit elsewhere to alleviate the physical damage and/or economic injury sustained.

C. Use of Applicant's and/or Owner's Assets and Credit. SBA will consider a waiver of the legislative limit only to the extent that loan assistance in excess of $2,000,000 is necessary after the applicant, its affiliates, and its principals use business and personal assets and credit to the greatest extent possible without incurring undue hardship.

D. Processing and Approval Authority.

1. The PDC may decline or withdraw applications for more than $2,000,000 in accordance with normal policies. The PDC may also determine that an applicant is not an MSE. (A decline for MSE status is subject to specific reconsideration procedures. Refer to paragraph 7.30).

2. If we can approve an application from a credit and repayment perspective and justify an MSE waiver the PDC must prepare both recommendations and send the case file to Headquarters. The CD/PDC's recommendations must include the initial recommendation and concurrence by an approving official with delegated authority in accordance with the rule of two.

3. All approval recommendations must contain the following loan conditions:

a. Net Earnings Clause;

b. Initial Public Offering (IPO) Clause;

c. Distribution and Compensation Clause; and

d. Landlord's waiver (when collateral is located on leased premises).

NOTE: The exclusion of any of these conditions requires justification in the case file.

4. The AA/DA must approve the loan and MSE recommendations.

7.7. ROUNDING OF DOLLAR AMOUNTS

All disaster loans must be rounded to the next higher whole hundred when determining the actual loan amount. The final loan amount is rounded only once. You then allocate the use of proceeds accordingly (RE, PP, M&E, inventory, etc.).

NOTE: Proceeds allocated for repayment of FEMA assistance must be allocated in the exact dollars and cents rather than rounded. In those cases, you should ensure that the other personal property proceeds are adjusted accordingly to ensure that the total loan amount remains in hundred dollar increments.

7.8. LIMITED LOAN AMOUNTS/LOSS IN EXCESS OF LENDING LIMITS

For applicants that lack the ability to repay the full amount of the disaster loan eligibility, have losses in excess of the lending limits that will effect viable restoration, or request a lesser loan amount than the eligible losses; you must justify in your case file how they can complete the repairs/project at a reduced amount.

A. Requests for Reduced Loan Amount and/or Losses in Excess of Lending Limits. Some applicants may request a reduced loan amount. Others may be unable to borrow the full amount due to uninsured losses in excess of our lending limits. You may recommend approval of a loan for less than the eligible loss if you document in the case file that the reduced amount is sufficient to complete repairs which will render the home habitable or return the business to operation.

1. The applicant(s) may state they can restore the property with a reduced loan amount. If the requested amount is within 25 percent of the eligible amount, you may grant the request without consulting the LV department. Otherwise, you must consult with the PDC Loss Verification Department to determine if the lesser loan amount will restore the property.

2. The applicant may plan to fund the remaining repairs through personal resources such as savings or through outside financing. If so, you must justify the case file of the sources for the funding. In some instances, a disaster survivor's recovery could involve funding from FEMA, State grants, or other organizations such as Mennonite Disaster Services.

3. If the applicant intends to use outside financing to cover the remaining repair costs, you must determine whether:

   a. The amount needed to supplement the SBA loan is available to the applicant on reasonable terms; and

   b. The applicant can repay all obligations, including the proposed outside financing; and

   c. How the additional financing may impact SBA's collateral lien position.

B. Reduced Amount due to Limited Repayment Ability.

1. You may recommend approval of a loan for less than the eligible loss due to limited repayment ability provided that you:

   a. Use 100 percent of available cash (CA) and the maximum loan term (30);

   b. Document in the case file that the reduced amount is sufficient to render the home habitable.

7.9. INTEREST RATES

A. General Rule.

The Small Business Act requires us to determine if credit is available elsewhere before we assign an interest rate. The Credit Elsewhere Test (CET) measures the applicant's ability to address the disaster loss from available resources or to obtain credit from non-Federal sources at reasonable rates and terms. If the CET results in a finding that credit is available elsewhere, the market (higher) interest rate applies. (See Appendix 17)

The LO must review the underlying financial information to ensure that the information is accurate, consistent with the application, and not artificially inflated.

B. Determination of Hardship.

When an application meets the criteria for Credit Available Elsewhere, you must determine whether the assignment of the market rate will result in a repayment amount that will cause the applicant undue financial hardship. When appropriate, a hardship waiver may be granted. In considering a hardship waiver, you should consider the totality of circumstances affecting the overall financial situation of the applicant (including principals and affiliates in the case of business loans). A hardship waiver must be justified in the case file and approved by the SLO.

NOTE: ACDAP approval is required for any loan modification action that changes the interest rate from below market rate to market rate.

C. Determination of Interest Rate. Each disaster declaration specifies the interest rates applicable for all loans processed under that disaster declaration.

1. Home Loans. The Small Business Act requires the use of a formula for setting interest rate for home loans. The below market rate applies to homeowners with no Credit Available Elsewhere, and the market rate applies to homeowners with Credit Available Elsewhere.

2. Business Physical Loans. Similarly, the statute contains a requirement for setting the interest rate for business loans. The below market rate applies to businesses with no Credit Available Elsewhere, and the market rate applies to businesses with Credit Available Elsewhere.

   a. When an application is determined to have Credit Available Elsewhere, a maximum 7-year term applies.

   b. You must consider the applicant, its owners or principals, and its affiliates. Principal and affiliate information is incorporated into the ratio analysis based on the percentage of ownership or affiliation. Individuals and/or legal entities with less than 20% ownership are excluded. Business concerns with less than 50% affiliation are excluded. Subsidiaries of the applicant are included based on the percent of ownership the applicant has in the subsidiary.

3. Non-profit Organization Loans. The statute contains a requirement for setting the Credit Available Elsewhere interest rate for private non-profit, charitable, cooperative, religious, and similar organizations and institutions.

   Use the Business CET to determine the rate for non-profit organizations. Non-profit organizations determined to have Credit Available Elsewhere are not subject to the maximum 7-year term.

4. Economic Injury Loans. By statute, we can only authorize EIDLs at the business NCE interest rate. EIDL applicants determined to have Credit Available Elsewhere are ineligible for EIDL disaster assistance.

5. MREIDL Loans. The published interest rate which will be assigned to MREIDL loans changes quarterly. However, once the appropriate interest rate is assigned to a MREIDL loan at the time of approval, it remains fixed. The interest rate to be applied to any MREIDL loan is SBA's published EIDL interest rate at the time the MREIDL application is approved.

7.10. LOAN TERMS, INSTALLMENT PAYMENT AMOUNTS

A. General Rule. You determine the installment payment amount based upon the applicant's ability to repay. First you establish the installment payment amount then you set the term in accordance with that amount.

B. Maximum Term.

1. The maximum term of disaster loans is 30 years.

2. For businesses able to obtain credit elsewhere, the maximum term is 7 years.

3. For private non-profit, charitable, religious, cooperative, and similar institutions able to obtain credit elsewhere, the maximum term is 30 years.

C. Establishing the Term.

1. You are responsible for an independent evaluation of the applicant's ability to repay. You should not base payment amounts and terms solely on an applicant's request.

2. For home loans, the Fixed Debt Method provides the method for analyzing and justifying payment amounts and terms (see subparagraph J 2 below).

3. For business loans (including PNPs), base the loan term on the target payment (see subparagraph J 3 below).

4. For EIDLs, base the loan payment upon the applicant's ability to repay the loan. However, when a significant portion of the loan amount is based upon frozen inventory or receivables, a shorter term may be appropriate because the applicant's cash flow will improve as the inventory or receivables are converted to cash. The shorter term would not be appropriate if the injury resulted from inventory which became obsolete or accounts which were charged-off.

D. Equal Installment Payments. Generally, disaster loans are repaid in equal monthly installment payments of principal and interest which fully amortize the loan amount and the interest accrued during the initial deferment period within the loan term (see subparagraph G. below).

E. Exceptions to Equal Installment Payments.

1. It may be appropriate to approve a loan with reduced initial installment payments and larger installment payments thereafter.

a. This usually occurs when an applicant will pay off a significant fixed debt within the first two years of the loan, and that debt is unlikely to recur, such as a mortgage or a one-time loan.

b. Recommendations for reduced initial payments must be justified in the case file, subject to the following:

(1) The initial installment payment amount must not exceed two years, after which the full (permanent) installment payment amount is required;

(2) You can permit only two payment amounts (initial and permanent). This restriction does not govern changes which may become necessary during the closing, disbursing, and servicing processes; and

(3) Generally, the initial payment amount should at least cover accruing interest. This avoids an accrual of deferred interest

requiring an unreasonably large permanent payment amount to amortize within the term.

2. Balloon payments are prohibited.

F. Frequency of Installment Payments. You must justify any exception to monthly payments in the case file. However, when an applicant receives income on a seasonal or annual basis, you may arrange the repayment schedule to provide for quarterly, semi-annual, or annual payments.

G. First Payment Due Date.

1. The first payment due date is 5 months from the date of the Note. This reflects a standard deferment of 4 months. It recognizes that disbursements are seldom completed on the Note date, and that disaster recovery is seldom accomplished immediately upon obligating.

2. In some instances you may need to defer the first payment due date longer than 5 months from the date of the Note. For example:

a. For Physical Loans, when the construction/major repair will take a protracted period, the borrower may be unable to make full payments until the project is substantially completed.

b. For EIDL loans when,

(1) There is major damage involving lengthy repairs; or

(2) The injury period extends more than 5 months into the future; or

(3) The borrowing business is seasonal in nature.

3. In these cases, the first payment due date may be set more than 5 months from the date of the Note if you justify the need in the case file. The interest accrual during these deferment periods can be significant, and may result in substantially higher installment payments to amortize the loan within the term. Approval authority for these deferments is limited as follows:

a. First payments due up to and including 12 months require SLO approval.

b. First payments due more than 12 months but not to exceed 24 months require the ACDAP final approval.

c. First payments due more than 24 months require the AA/DA final approval.

d. MREIDLs: Generally, the first payment for MREIDL loans will be due 15 months from the date of the Note. The SLO is authorized to approve this deferment. Any further deferrals are subject to the approval authority limitations in paragraph 8.1.

NOTE: The first payment for a MREIDL will be deferred to the later of:

(1) One year from the date of the initial disbursement; or

(2) The period during which the essential employee is on active duty. SBA's standard MREIDL deferment may exceed the statutory deferment.

The loan terms must be reconciled at each disbursement to assure that both requirements have been met. If necessary, the deferment should be extended to bring the loan into compliance.

H. Payments are Fixed Amounts in Whole Dollars.

1. You must express all installment payments as a fixed number of dollars, rather than "principal and interest" or "interest only" or other descriptions.

2. You must round all installment payments up to the next whole dollar to accommodate automated collection facilities.

I. Terms in Whole Months or Years. You must write initial loan terms in whole months or years. You round up to the next month or year as follows:

1. Write loan terms of less than 1 year, in whole months (e.g., 9 months);

2. Write loan terms of less than 3 years in years and whole months (e.g., 2 years 7 months);

3. Write loan terms of 3 years or more in whole years; and

4. If you modify a loan, the resulting term will not usually be a whole year. In these cases, you write the modified term for the next higher whole month, even if the loan term is 3 years or longer.

J. Calculating Payment Amounts and Loan Maturities.

1. Accrued Interest. You must account for the interest accrued during the initial deferment period when you set the loan term. Every loan has at least a 4 month deferment.

2. Home Loans. For home loans, determine a reasonable amount for the borrower to pay for each monthly installment. Generally, you should base the target payment at 1/3 of TOTAL CA (cash available). You must justify the payment if you use an amount other than the target payment.

3. Business Loans. For business loans, determine a reasonable amount for the borrower to pay for each monthly (or other) installment. Generally, you should base the target payment at 1/3 of TOTAL CASAD (cash available to service additional debt). You must justify the payment if you use an amount other than the target payment.

4. Payments will first be applied to the interest accrued before any portion of payments will be applied to principal. The loan is a simple interest loan; the SBA loan accounting system does not charge interest on interest.

K. Special Provisions Applicable to Private Colleges and Universities. AA/DA can approve a deferment of principal and interest payments for the first three years of the term of a disaster loan to a private college or university in Presidential declarations.

7.11. COLLATERAL REQUIREMENTS

A. General Rule. SBA policy establishes collateral requirements based on a balance between protection of the Agency's interest as a creditor and as a provider of disaster assistance.

B. Unsecured Loan Limit.

1. The Limit for Unsecured Physical Disaster Loans (Home and Business) is $14,000 in agency declarations and $25,000 in presidential declarations. However, we can accept security when the applicant voluntarily offers collateral on loans of lesser amounts. For example, an applicant may wish to take advantage of the mortgage interest deduction for tax purposes, and may freely offer the property as security. In these cases we would accept security for the loan which would otherwise be unsecured. Never suggest collateralizing an otherwise unsecured loan with an applicant. You must always document in the case file that you did not require or solicit an offer of collateral, but the borrower voluntarily offered it.

2. Unsecured and Secured EIDL Loan Limits. You must secure any EIDL in excess of $25,000 ($50,000 MREIDL).

   a. You may secure EIDLs of $25,000 ($50,000 MREIDL) or less only if the applicant voluntarily offers collateral (generally for tax purposes). In these cases, you must document in the case file that you did not require or solicit an offer of collateral, but the borrower voluntarily offered it.

   b. If more than one EIDL is made to the same borrower (including its affiliates) for the same disaster event, aggregate the loans. You must secure each loan if the aggregate amount is more than $25,000 ($50,000 MREIDL).

3. When making multiple disaster loans to the same borrower (or affiliated group), apply the following guidelines.

   a. You must aggregate the amount of all physical loans separately from all EIDLs to the same borrower (and its affiliates) from the same disaster event (e.g., home loan and business loan, or two loans to two affiliated businesses). If the aggregate amount of the physical loans is more than $14,000 in agency declarations or $25,000 in presidential ($50,000 MREIDL), each of the loans must be secured. If the aggregate amount of the EIDLs is more than $25,000 ($50,000 MREIDL), each of the loans must be secured. If the aggregate amount of the physical loans is

$14,000 or less in agency declarations or $25,000 or less in presidential declarations or if the EIDLs are $25,000 ($50,000 MREIDL) or less, you cannot require collateral.

NOTE: Do not aggregate the amounts of the physical loan(s) and EIDLs) to determine if collateral is required. It is possible to have a secured physical loan and an unsecured EIDL companion loan or vice versa such as a secured home loan in the amount of $100,000 and unsecured companion EIDL of $25,000.

b. You must aggregate disaster loans from the same disaster event in multiple jurisdictions (e.g., states) even if we issue a separate disaster declaration in each jurisdiction.

c. Do not aggregate disaster loans with outstanding loans to the same borrower (and affiliates) from prior disasters.

4. Collateral Issues for B/E Loans.

a. There is no change to our standard collateral requirements with a B/E loan. If either the physical loan amount or the EIDL amount exceeds the unsecured threshold, the loan must be secured. The loan is unsecured when the physical loan amount does not exceed $14,000 in agency declarations or $25,000 in presidential declarations and the EIDL amount does not exceed $25,000. You do not aggregate the physical and an EIDL loan amount to determine if collateral is required.

b. If the business physical loan is a decline or withdrawal and only the EIDL is approved, the unsecured threshold is $25,000.

c. If the EIDL is declined or withdrawn and only the physical loan is approved, the unsecured threshold is $14,000 in agency declarations or $25,000 in presidential declarations.

C. Secured Loans. Generally, all loans exceeding the unsecured loan limit require collateral.

1. Determine what collateral is available, and take that collateral which will best secure each loan. Real estate is the preferred form of collateral, even if the equity in the RE or manufactured home is insufficient to secure the full loan amount. For business loans other fixed assets, such as M&E, are usually preferred to inventory or accounts receivable as collateral. Even if there is not any RE damage but real property is available as collateral, we will require a lien of the real property. When an applicant offers other collateral, SBA will attempt to honor the applicant's preferences, but only to the extent that doing so will secure the loan at least as well as taking other available collateral not offered. When a conflict exists between the collateral available and the collateral that is offered, our determination is final.

2. We will not decline an application if the available collateral does not adequately secure the full loan amount. However, an applicant's refusal to pledge available collateral is grounds for declining a loan application or canceling an approved loan.

3. Generally, collateral is adequate if the equity is at least 100 percent of the loan amount.

4. Generally, we will not require an applicant to pledge more collateral than is necessary to adequately secure a loan.

5. Consistent with the above criteria, we would generally take the damaged or replacement property for collateral. However, to avoid unnecessary paperwork or excessive collateral, it may be appropriate to do otherwise. For example, if an applicant owns two real estate parcels, one damaged and one not damaged, where the equity in the damaged property is insufficient to secure the loan, but the equity in the non-damaged property is sufficient, we prefer to fully secure the loan with a lien on the non- damaged property and avoid taking another lien on the damaged property. Otherwise, the usual practice is to require a lien on the damaged property, and because that is insufficient to secure the loan, to require another lien on the non-damaged property. For insurance requirements, see paragraph 7.13 and 7.14.

D. Collateral from Business Tenants. Certain condition requirements apply when the collateral is located at leased premises.

1. Assignment of Lease. An assignment of lease is generally only required when a lien is taken on structures or improvements on leased land (leasehold mortgage, security interest in structures, etc.). If we are taking an assignment of lease as collateral, the following additional requirements may be needed:

a. Lease Extension Requirement. If the existing lease, including renewal options, is for a period at least equal to the proposed loan term, there will generally be no special risk. However, a lease extension should be required if the lease is shorter than the recommended loan term.

b. Lease Requirement. If the borrower does not have a formal, written lease, the LAA should require the borrower to obtain a lease "satisfactory to SBA".

c. Lease Modification Requirement. If any of the terms and conditions of an existing lease is unsatisfactory, the LAA should specify the necessary changes.

NOTE: If the applicant prefers, other collateral acceptable to SBA may be substituted and we can waive the assignment of the lease.

E. Secured Loans to Associations. Generally, we secure loans to associations by taking both of the following:

1. A mortgage or deed of trust on real property separately deeded such as office space, public area or recreational facility and owned by the association, where permitted by law.

2. An assignment of a special assessment passed by the association in accordance with its by-laws, unless prohibited by state law. (The association must assess

each unit owner in an amount sufficient to provide loan repayment.) The assessment shall be approved as provided for by their governing documents. The Accounts Department will prepare the assessment as follows:

a. It will be in an amount sufficient to fully amortize this loan in accordance with the payment terms as stated in the LAA.

b. It will refer to and adopt all of the terms and conditions of the LAA, and provide that the proceeds of the special assessment will be used solely to amortize the loan.

c. It will be irrevocable until the SBA loan is paid in full.

d. It will require the association to assign the proceeds of the assessment to SBA as collateral for the loan.

F. Prior Liens and Other Creditors. Applicants often have existing liens on the collateral property. With respect to prior lien holders:

1. SBA requires that borrowers agree not to accept future advances (in excess of the recognized lien amount in the LAA) under any superior lien on the collateral without the prior written permission of SBA.

   Sometimes, more restrictive requirements may be appropriate especially when the collateral secures an open line of credit.

2. If the collateral is located in a "non-notice" state, we will send a letter to the senior lien holder(s) requesting advance notice of any foreclosure actions against the borrower. Prior to disbursement in excess of the secured threshold, it may be appropriate to obtain a specific agreement by the prior lien holder to provide this notice in advance of foreclosure. In such cases, you must justify the requirement in the case file, and incorporate the appropriate condition in the LAA.

G. Comparative Value of Lien and Equity Position. If the applicant elects not to directly repair or replace the disaster damaged property, you must consider the comparative value of our lien and equity position. As a general rule, if we accommodate the applicant (such as involuntary or voluntary relocation, applicant funded improvements, alternate use of eligibility, etc.) our lien and equity position should be at least as good as it would have been had only the damaged or destroyed property been repaired or replaced and a lien placed on it.

1. Collateral value is not merely a matter of the priority of lien position. You should also consider the value of the lien for each alternative.

2. We will consider our collateral position to be as good in any case where the loan is sufficiently collateralized by the lien after accommodating the borrower, regardless of the priority of the lien position. You should justify any exception in the case file.

H. Collateral Appraisals. Formal appraisals, although rare, may occasionally be appropriate. This might arise in very large loans, especially MSE loans. Formal

appraisals are performed by professional, licensed public appraisers. The ACDAP, ACDA, or higher must approve requests for formal appraisals.

I. Relocation. (Refer to paragraph 3.28 I) for guidance on treatment of prior liens on properties involved with relocation.

J. Widely Scattered Collateral. When the damage is to property which is dispersed across a wide geographic area (e.g., billboards and vending machines), or when an applicant offers this type of property as collateral, the cost of obtaining hazard insurance coverage may be prohibitive. In these cases, you should consider alternative collateral on which appropriate insurance can be obtained at reasonable cost.

K. Release/Retention of Collateral. When we reduce a loan to an amount below the secured threshold, (no disbursements have been made above the secured level) you should release the collateral. The loan modification letter should indicate that the Accounts Department will forward a release of lien document to the borrower under separate cover. The exceptions that may prevent the release of the lien would be if the loan is delinquent or other adverse information has been received (e.g. bankruptcy etc.).

L. Non-applicant Owners. Sometimes, not all owners are applicants. This may arise among family members due to inheritance provisions, life estates, estranged spouses, etc. In these cases, we generally require the non-applicant owner to execute our lien documents (mortgage/deed of trust, etc.).

7.12. GUARANTEE REQUIREMENTS

A. Definitions.

1. To guarantee is to assume responsibility for payment of a debt if the person(s) or concern primarily liable fails to perform.

2. A guarantee is the actual written agreement by which one assumes responsibility for ensuring payment of the debt or obligation of another.

3. A guarantor is the one who makes or gives the guarantee.

4. A principal, for purposes of this paragraph, means:

a. For sole proprietorships, the proprietor;

b. For General Partnerships, all general partners;

c. For Limited Partnerships, all general partners and any limited partner who owns 20 percent or more of the partnership;

d. For Limited Liability Entities, the Managing Member and any member who owns 20 percent or more of the entity; and

e. For corporations, any individual or legal entity who owns 20 percent or more of the voting stock.

5. Some individuals who do not meet the definition of a principal may be in the controlling group, and the guarantee requirement applies. For example, this may occur in a family owned business, where several members of the same family own less than 20 percent of a business, but together form a controlling group. SBA determines the composition of the controlling group on a case-by-case basis. (See 13 CFR §121.103(a)).

B. Business Loans. Generally, we require all the principals to provide a guarantee of the loan (except in cases of sole proprietorships or when principals are included as co-borrowers). Depending on the adequacy of the collateral owned by the business, guarantees can be secured or unsecured. The guarantees of the principals are not a substitute for business collateral. They are a safeguard to protect our position. Refusal of a principal to provide a guarantee is a basis for declining an application or canceling a loan.

1. Unsecured Guarantees. If the business can adequately secure the loan with real estate, the guarantees of the principals should generally be unsecured.

2. Secured Guarantees. If the business does not have adequate equity in the real estate to fully secure the loan, the guarantees of the principals should generally be secured (even if the business has M&E, etc., which was also taken). However, if one or more principal(s)' collateral is enough to secure the loan, you may require unsecured guarantees from the other(s). This option should only be considered if all guarantors/principals are in agreement with such an arrangement.

3. Limited Guarantees. In some situations, a limited guarantee may be appropriate. A limited guarantee may be unsecured or secured with a limit to the maximum amount of a guarantee, a limit to the guarantor's interest in collateral, or a limit to a percentage of the unpaid balance.

4. Guarantees by Affiliates. A guarantee of an affiliate should only be required when the cash flow of the affiliate is necessary for repayment of our loan or when they are providing collateral.

C. Home Loans. Guarantees are not ordinarily necessary for home loans.

7.13. HAZARD/OTHER INSURANCE REQUIREMENTS

Hazard insurance is required as follows:

A. Damaged Property. Hazard insurance is required on all loans in which the loan amount exceeds the secured loan threshold for damaged property (real estate, contents, leasehold improvements, business contents (business contents coverage includes inventory), etc.) under the following conditions:

1. The damaged property is required as collateral; and/or

2. Loan funds have been specifically allocated for the damaged property.

3. The loan proceeds are allocated for personal property only, and the loan amount exceeds the secured threshold, regardless of whether or not collateral is required.

B. Collateral Property. Hazard insurance is required on all property pledged as collateral on the loan (real estate, business contents, leasehold improvement, vessels, boats, personal contents, etc.).

C. Specific Peril. Hazard insurance generally includes fire, lightning, and extended coverage. However, when the disaster is related to a specific peril not covered by hazard insurance (earthquake, windstorm, etc.), you must require coverage for the specific peril which caused the damage and the specific peril for which the disaster was declared when it is determined that mortgage lenders in the disaster area require insurance for the specific peril. The CD/PDC can determine that the Specific Peril requirement is not necessary and may waive this requirement after taking into consideration the common practices of the mortgage lenders in the disaster area. To make this determination the CD/ PDC should check the requirements of the three largest mortgage lenders in the disaster area.

For example, windstorm specific peril insurance coverage will generally be required for all properties within the declared disaster area when the declaration was the result of a hurricane, tropical storm, or remnants of a hurricane or tropical storm and hazard insurance is not covering the disaster losses.

1. You must require specific peril coverage when the loan exceeds the secured threshold for:

   a. All collateral located within the declared disaster area.

   b. All disaster damaged properties for which the borrower is receiving SBA funds; and

   c. Relocation properties located within the declared disaster area.

D. Hazard insurance is not required in the following scenarios:

1. Hazard insurance is not required for any property for which there are no SBA loan proceeds or for any property not taken as collateral. For example, if the borrower has contents at the damaged location, and there are no loan funds allocated for contents, or the contents are not collateral for the loan, hazard insurance coverage is not required for the contents.

2. Hazard insurance is generally not required for vehicles used for transportation, unless the vehicle is used as collateral.

3. Non-owner applicants required to repair or replace the damaged personal property or business contents (i.e. bailor/bailee, etc.) are not required to maintain insurance on the damaged property.

E. Amount and Terms of Coverage Required. Generally, borrowers must furnish hazard insurance equal to at least 80 percent of the insurable value of the property to be insured. Insurance required on collateral must name SBA as mortgagee or loss payee. Borrowers

must maintain the stipulated coverage throughout the entire term of the loan even if the loan has been sold to a third party.

F. Widely Scattered Property. If insurance coverage is required for property dispersed across a wide geographic area (e.g. billboards or vending machines), the coverage may not have to be location specific but should adequately cover the property used in the ordinary course of business.

G. Business Interruption Insurance. We do not generally require an EIDL recipient to purchase business interruption insurance as a condition of loan approval.

7.14. FLOOD INSURANCE REQUIREMENTS

A. Definitions (for this paragraph).

1. Act: The Flood Disaster Protection Act of 1973, as amended.

2. FIA: The Federal Insurance Administration, a part of the Federal Emergency Management Agency.

3. NFIP: The National Flood Insurance Program authorized by the Act and administered by FIA. The NFIP includes an insurance program for indemnification against flood property damage, and conditions for community participation which are intended to minimize future flood losses.

4. SFHA: An officially designated and defined Special Flood Hazard Area. These areas are designated on flood hazard boundary maps. The SFHAs normally mean the A zones which indicate the area in the 100-year floodplain.

5. Acquisition or Construction: Defined by FEMA regulations to include the "acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home on a foundation, and any machinery, equipment, fixtures, or furnishings, contained or to be contained therein."

6. Flood Hazard Boundary Map: A map published by FIA indicating the boundaries of SFHAs.

7. Flood Hazard Boundary Map Effective Date: The date a flood hazard boundary map became effective.

8. Participating Community: A community which is participating in the NFIP by adhering to FIA/FEMA flood mitigation standards.

9. Non-participating Community: A community which is not participating in the NFIP and in which NFIP flood insurance coverage is not available. A non-participating community may be under sanction (see definition below), which has important consequences.

10. Community Under Sanction: A community the FIA has acted to sanction for failure to meet the requirements of NFIP and in which NFIP flood insurance is

not available. This includes communities which are nonparticipating after one year has elapsed since the flood hazard boundary map effective date (since SFHAs were formally identified within the community), or a community which has withdrawn from or failed to adopt or adhere to NFIP requirements.

11. Insurable Property: Property which can be insured under a standard NFIP flood insurance policy.

12. Uninsurable Property: Property which cannot be covered under a standard NFIP flood insurance policy (e.g., unimproved land, gas and liquid storage tanks, wharves, piers, bulkheads, crops, shrubbery, land, livestock, roads, motor vehicles, some leasehold improvements (LHI), and certain contents of basements). Whether property is insurable is unrelated to eligibility. Some uninsurable property (e.g., crops and livestock or property in the CBRS) is not eligible, while other uninsurable property (e.g., some motor vehicles, some LHI, or some contents of basements) is eligible.

13. Property Located in an Otherwise Protected Area (OPA). Flood insurance is not available under NFIP for property in an OPA unless the structure was constructed on or before November 16, 1991 and the structure was not substantially improved or substantially damaged after that date, or the building is used in a manner consistent with the purpose for which the area is protected, regardless of the date of construction. However, private flood insurance substantially similar to NFIP may be available (see subparagraph J below).

NOTE: Flood insurance may NOT be waived if located in a SFHA, even if the property is an OPA.

B. Determination of Location in a SFHA. SBA is required to make a determination whether a property is located within a SFHA. Letters from real estate or insurance agents or other parties are not acceptable substitutes for our determination based on the maps.

C. Contested Location in a SFHA. If an applicant/borrower disagrees with our determination or information in the case file conflicts with the determination you should request that LV re-map the contested location. Determination by LV is final.

NOTE: If the property is still deemed to be in a SFHA, you must inform the applicant(s) that, if FEMA or the local flood plain coordinator provides a letter stating that the property is not in a SFHA, we may remove the flood insurance requirement.

D. Flood Zone Determination on Relocation Property.

1. When the relocation property is known, we base the SFHA determination on the relocation site. If not known, we base it on the damaged property location until the relocation property is known.

2. When the relocation site is temporary, such as during reconstruction of the permanent site, we must determine whether any loan proceeds will be used toward property stored or used in the temporary location, or whether any of our

collateral property will be at that location. If either situation exists, we must make a determination for both the temporary site and the damaged site.

3. If we learn at any time while in possession of a borrower's case file that the borrower has moved, we must make a new determination.

E. Property Partially Located in an SFHA. When only a portion of a property is in an SFHA, we consider the property to be located within the SFHA and subject to the flood insurance requirement. An exception to this rule occurs when the entire portion of the property located within the SFHA is uninsurable, and all the insurable property is located outside the boundary of the SFHA. In these cases, the property is considered as not in an SFHA. When there are multiple structures on the property, only the insurable structures located within the SFHA are subject to the flood insurance requirement.

F. Property Subject to Flood Insurance Requirement. The Act requires that, as a condition of any Federal assistance secured by improved real estate (or a manufactured home) located in an SFHA, the building and any contents securing the loan must be covered by flood insurance before any loan disbursement. Additionally, any loan used for construction purposes in an SFHA is subject to this requirement. Specific provisions govern certain circumstances, as follows.

1. If the property is located in a SFHA Zone A or V in a community under sanction, flood insurance is not available and applicants cannot meet the statutory requirement. Therefore, such applicants are ineligible. This bar applies even if the property is wholly uninsurable. However, applicants who relocate to a participating community will be able to meet the statutory requirement and are eligible. Similarly, applicants who relocate to a site not in an SFHA (whether or not in a community under sanction) are not subject to the statutory flood insurance requirement. You must require a notice of disqualification for all relocations from SFHA A or V or in a sanctioned community (see paragraph 3.28, I 2 c & d).

2. We may encounter a non-participating community where less than one year has elapsed since the flood hazard boundary map effective date. Although NFIP flood insurance is not yet available, these communities are not under sanction and loans may be approved to applicants in these communities without a statutory or regulatory requirement to obtain flood insurance. These loans must be approved within one year of the flood hazard boundary map effective date. The date of the loan approval (obligation of funds) governs whether this exception applies. Neither the date of the disaster nor the date of the application is relevant.

3. If the property is wholly uninsurable (e.g., a driveway and bulkhead on otherwise unimproved land), do not require flood insurance. If evidence is submitted to show the property is not insurable, the condition that flood insurance be in place has been satisfied because the borrower has obtained the maximum coverage available, which is none, and does not need to be removed by loan modification action.

4. By law we require flood insurance on all loans where the damaged and/or collateral property is or will be located in a SFHA. The requirement applies to the real estate, contents and any other improvement which can be insured.

a. In General

(1) For a homeowner, the property subject to the flood insurance requirement includes the residence, contents (personal property), and appurtenant structures;

(2) For a residential tenant, the property is the contents (personal property);

(3) For a business which operates in its own building, the property is the building, contents, and appurtenant structures; and

(4) For a business which operates in a leased location, the property is the business contents. When the borrower owns the structure on leased land we will require the borrower to obtain flood insurance on the leasehold improvements (structure).

b. Damaged Property. Flood insurance specific to the type of damaged property in a SFHA (real estate, contents, leasehold improvements, etc.) is required.

5. We will not require flood insurance in the following scenarios:

a. We do not require flood insurance on any property which is neither included in the SBA loan proceeds, nor used as collateral. For example, if the borrower has contents at the damaged location, but SBA is not loaning for contents or using the contents as collateral, you should not require coverage for the contents.

b. We do not require flood insurance for uninsurable property (e.g. vehicles, cars, motorcycles, boats).

c. Non-owner applicants who must repair or replace the damaged personal property/business contents (i.e. bailor/bailee, etc.) are not required to maintain flood insurance on the damaged property.

NOTE: When vacant/raw land in a SFHA is being taken as collateral and no funds are being loaned to improve this land, flood insurance is not required.

G. Amount of Coverage Required By Law.

1. SBA requires that flood insurance coverage be the lesser of 1) the total of the disaster loan (the sum of all use of proceeds allocations), 2) the insurable value of the property, or 3) the maximum insurance available.

NOTE: When a loan contains multiple damaged properties this is calculated on a per property basis.

Neither the statutory nor the regulatory requirements apply to property not located in an SFHA, regardless of whether in a community under sanction or a non-participating community.

2. If flood insurance is required you must include the standard flood insurance condition in the LAA.

H. Amount of Coverage for Secured Loans Required By Policy.

1 Physical Loans:

a. If flood insurance is not required by the Flood Disaster Protection Act of 1973 (as amended), SBA will require flood insurance (without further justification) on the real and personal property as a matter of policy when:

(1) Rising water caused the flooding. However, flood insurance is not required if the cause of the flooding would not have been covered by NFIP flood insurance, e.g., groundwater seepage or sewer backup (unless these are part of general flooding in the area that also involves this applicant), runoff or channeled water (unless the surface flooding in the flooded area was caused by runoff or channeled water) or wind driven water (i.e., where gale force winds damage a roof or blow out windows permitting rain water to cause damage inside the structure); and

(2) The flooding caused damage to insurable real property and/or contents (including basements of insurable structures); and

(3) The borrower owns the real property that has been damaged by the flood or is responsible for making repairs to the damaged property.

b. If the flood damaged property is not taken as collateral, the damaged property must still be covered by flood insurance if the applicant/borrower is receiving funds toward its repair.

c. The amount of coverage will be the lesser of 1) the total of the disaster loan (the sum of all use of proceeds allocations), 2) the insurable value of the property, or 3) the maximum insurance available.

2. EIDL Loans. If the business location is not taken as collateral, but is in an SFHA or has been repeatedly flooded, we must require flood insurance for credit reasons. Generally, the amount of coverage will be the lesser of the loan amount or the maximum insurance available.

3. If the flood insurance would be required under this subparagraph but the applicant is not able to obtain the insurance because the property is in an

unmapped or sanctioned community, you can delete the standard flood insurance clause in the LAA. You must justify this deletion in the case file.

I. Flood Insurance Coverage for Other Loans. If the disaster-damaged property is not located in an SFHA, but is subject to risk of flood loss (i.e., the loan is to repair flood damage, such as M&E, etc., or the property has been repeatedly flooded), we may require flood insurance in situations other than as described above. You must justify this requirement in the case file. Generally, the amount of coverage will be the lesser of the loan amount, the insurable value or the maximum insurance available.

J. Alternatives to National Flood Insurance Coverage.

1. Insurance coverage for flood losses from carriers other than NFIP is an acceptable alternative, provided the community where the property is located is participating in NFIP. The coverage must:

a. Provide coverage that is at least as broad as the coverage provided under the standard NFIP policy, including when considering deductibles, exclusions, and conditions offered by the insurer;

b. Include an endorsement that the insurer must give 45 days' notice of cancellation for non-renewal to the insured and SBA;

c. Include information about the availability of flood insurance coverage under the NFIP;

d. Contain a mortgage interest clause similar to the one in the standard NFIP policy;

e. Contain a provision requiring an insured to file suit not later than 1 year after date of a written denial of all or part of a claim under the policy; and

f. Contain cancellation provisions that are as restrictive as the provisions contained in the standard NFIP policy.

K. Consequence of Failure to Maintain Required Flood Insurance Coverage.

1. The National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325 as amended, contains certain provisions regarding the purchase and maintenance of flood insurance in order to qualify for Federal assistance, including SBA disaster assistance. Applicants who received Federal flood disaster assistance that was conditioned on obtaining flood insurance under Federal law, but who did not obtain and maintain the insurance, are not eligible for Federal disaster relief.

NOTE: Verification of compliance can be found on the NEMIS Report, Insurance screen. A copy of this report should be scanned into the case file for Agency Declarations. This is not required in Presidential Declarations, where compliance is evidenced by an auto-generated message in the Comment Tab of DCMS.

2. Applicants who received financial assistance from SBA through its regular business loan programs are subject to this requirement. The current LAA for these programs requires flood insurance for the business and/or collateral located in an SFHA, and that the borrower maintain it for the term of the loan. There may be cases where the borrower was not required to obtain and maintain insurance. In these cases, you must document the case file to show that insurance was not required, etc., and if practical, have a copy of the authorization scanned.

3. These provisions apply to previous SBA disaster loans even if the loans were subsequently sold to a third party.

4. Applicants whose property was located in a SFHA and obtained a mortgage from a federally insured lender (other than SBA) with the requirement to maintain flood insurance but failed to do so are eligible for SBA disaster assistance.

NOTE: There may be rare cases where the applicant(s)/principal(s) signed as a guarantor only on an existing Federal loan. In these cases, a loan approval can be recommended if the applicant(s)/principal(s) can fully document they did not have the control to maintain the required insurance.

NOTE: For additional information about the National Flood Insurance Program, refer to the NFIP website at http://www.fema.gov/national-flood-insurance-program

7.15 EFFECT OF FLOODPLAIN MANAGEMENT (EXECUTIVE ORDER 11988) AND WETLANDS PROTECTION (EXECUTIVE ORDER 11990) REQUIREMENTS (SEE 13 CFR §120.172)

These Executive orders apply to applicants with total eligible damage (inventory, M&E, structures, facilities, etc.) in excess of the regulatory limit when all of the following apply.

a. The proposed loan approval is more than $1,500,000.

b. Sustained damage to structures and/or facilities equals 50 percent or more of their predisaster value.

c. The damaged real property (structures and/or facilities, etc.) is situated within a 100-year floodplain (Zone A).

NOTE: If an approved loan to an applicant suffering damage as detailed above would constitute a critical action, the two Executive orders apply if the damaged real property is situated within a 500-year floodplain. Critical actions are defined as applications from:

(1) Nursing homes, hospitals, medical clinics, schools, etc., whose occupants lack mobility and any flood can result in the loss of life or injury; and

(2) Liquefied natural gas terminals and facilities producing and/or storing highly volatile, toxic, or water-reactive materials.

7.16. WAIVER OF ELIGIBILITY REQUIREMENT

SBA must not duplicate eligibility for multiple borrowers. If all owners are not included on the loan as a borrower you must add a condition to require an agreement from the non-borrower owner(s) to waive their eligibility to apply for SBA disaster loan assistance. (See exceptions)

7.17. ANTI-DISCRIMINATION COMPLIANCE REQUIREMENTS

A. Applicant's Agreement of Compliance. Whenever disaster loan funds in excess of $10,000 are allocated for construction we require all borrowers to execute SBA Form 601, "Applicant's Agreement of Compliance."

B. Business Loans. All business concerns receiving disaster assistance must agree not to discriminate in any business practice, including employment practices, on the basis of race, sex, or other categories cited in 13 CFR §112 and §113.

7.18. REQUIREMENTS FOR REAL ESTATE REPAIR

A. The amount of loan funds allocated to real estate construction/repair dictates when and if certain conditions are required. Debris removal, landscaping, and relocations (where no construction is required) are generally not associated with real estate construction requirements. In addition the purchase of a manufactured home generally does not require real estate construction conditions other than obtaining a permit for installation. The same criteria for imposing standard or additional requirements for real estate construction or repair of owned property apply to any RE or LHI located at leased premises.

1. Any loan with UP codes for real estate repair for any amount will contain notice that lead based paint is prohibited on any interior surface and any exterior surface of a residential structure which is readily accessible to children under 7 years of age.

2. Building Permit. A building permit is required for specific properties based on the following:

a. Home Loans. If real estate repairs exceed $50,000 and the property is substantially damaged (as defined by CFR) then a building permit is required prior to any real estate disbursement exceeding $50,000.

b. Business Loans. If real estate repairs exceed $350,000 on a property or the property is substantially damaged (as defined by CFR), then a building permit is required prior to a disbursement in excess of $50,000 real estate for that property.

Exception: Based on local requirements, when ACDA determines that permits are not necessary, we consider the stipulation met without specific evidence from each borrower.

NOTE: If a complete and fully executed construction contract indicates that the contractor has obtained the required permit (s), this requirement has been satisfied (estimates or work quotes are not sufficient).

3. Total Project Cost. If funding for real estate construction/repair exceeds $50,000 for a property, the Total Project Cost should be identified prior to any disbursement for real estate construction/repair exceeding $50,000 for that property.

4. Prior Injection. All other funds necessary to complete construction/repair must be accounted for within the project prior to any real estate disbursement exceeding $50,000. This will allow for immediate disbursements when necessary to keep a project solvent and moving forward. This includes insurance recoveries, grants, or other assistance and any personal injections.

5. Lien Wavers. SBA may require the borrower to submit lien waivers from contractors, sub-contractors, etc., as appropriate.

NOTE: If during the disbursement process, the borrower cannot satisfy these specialized conditions, a Supervisory Attorney may waive any of these conditions with written justification in the case file.

B. Performance Bonds. When approving loan funds due to contractor malfeasance, a performance bond is required. This requirement may be waived by the ACDAP or ACDA. Responsibility for contractor selection rests with the borrower, but we encourage the use of bonded contractors. Generally, we require a 100 percent bond executed by a corporate surety approved by the Treasury Department naming the borrower as obligee on the American Institute of Architects Form or comparable coverage. SBA is not to be named as obligee, nor is the term "completion bond" to be used.

C. Provision for Seismic Safety. All new building construction or an addition to an existing building financed (substantially damaged) by a disaster loan must meet the seismic safety requirements specified in the National Earthquake Hazard Reduction Act (NEHRP). Documentation of meeting this standard is the issuance of a building permit.

7.19. GENERAL LOAN REQUIREMENTS FOR LARGE LOANS (GREATER THAN $1 MILLION)

A. Initial Public Offering (IPO) Clause must be included in the LAA for any loan which exceeds $1 million, excluding private non-profit organizations. This clause gives SBA the option to require payment in full on the loan in the event that the borrower sells securities in a private placement or public offering of common or preferred stock or long-term debt with an equity feature

B. Net Earnings Clause (NEC) must be included in the LAA as follows:

1. The Net Earnings Clause is applicable only on loans made to applicants with an

MSE determination. The clause is required for all MSE loans with a maturity of 15 years or longer unless waived by the AA/DA or;

2. The percentage of net earnings to be applied to the loan balance must be between 5% and 10% at the Loan Officer's discretion.

3. The NEC payment will not begin before 5 years after the first payment due date. Once payment begins it will be due no later than 120 days following the close of the borrower's fiscal year, but may be paid quarterly or spread over 12 months if a financial hardship can be demonstrated.

C. Distribution and Compensation Clause. This condition is only applicable on loans made to applicants with an MSE determination.

D. Landlord's Waiver. This condition is applicable only on loans made to applicants with an MSE determination (when collateral is located in leased premises).

7.20. LOAN AUTHORIZATION AND AGREEMENT (LAA)

A. We issue all SBA disaster loan commitments in the form of a written LAA using SBA Form 1391, which contains the terms and conditions of the loan. By signing this written LAA the borrower is agreeing to the terms and conditions. You must not impose conditions other than as written in the LAA. The general form has six variations: unsecured home, business, and EIDL; and secured home, business, and EIDL.

B. A recommendation to approve a loan is not final until the SLO approves the case file and the commitment letter, when applicable. An Attorney Advisor reviews secured loan recommendations for sufficiency (flood by law; structure of the loan; ownership documentation; perfection of collateral) and other legal concerns.

C. Generally, an Attorney Advisor does not review unsecured LAAs.

D. Custom Conditions. When you review all available standard and optional conditions and determine that none of them apply to the condition you have placed on the file, you may create a custom condition. This should follow the "Borrower will" format used in all standard and optional text. An Attorney Advisor must review these custom conditions during review of the case file for clarity, legal sufficiency and conformance with format standards.

1. In completing the case file, you must review all available standard and optional conditions before using any custom condition. You only use custom conditions when no standard or optional condition will suffice.

2. If any custom condition is used more than 25 times a year it must be:

a. Submitted to the CD/PDC for possible adoption as a standard or optional condition.

E. The SLO is responsible for assuring that all conditions are consistent with the case file, and for avoiding nonessential use of custom conditions.

F. SBA requires loan recipients of a single loan in excess of $150,000 to execute a certification and disclosure regarding lobbying activities. In order to comply, we must have an executed Disclosure of Lobbying Activities, in the case file. The lobbying certificate must be obtained prior to any disbursement of loan proceeds. If a borrower has two or more loans from the same disaster, we do not aggregate these loan amounts to determine the $150,000 threshold.

7.21. CONDITIONAL COMMITMENT LETTER

A. If a specific item(s) are needed either to confirm eligibility or to facilitate the preparation of loan closing documents (LCDs). You must prepare a conditional commitment letter. Items commonly needed for this purpose include but are not limited to:

1. A complete, legible copy of a current deed (or other document which reflects ownership and contains a complete legal description);

2. A copy of the vehicle registration or other ownership documentation (title, bill of sale, lease, etc.) to the damaged vehicle;

3. A copy of the title or the equivalent legal documentation for the manufactured home. When taking the damaged manufactured home as collateral, no other proof of ownership is acceptable;

4. A copy of the lease or rental agreement (or other proof of occupancy);

5. A copy of the Certificate of Documentation or Registration for the vessel;

6. A copy of LLE Operating Agreement(s) and/or Article(s) of Organization;

7. A copy of the condominium/association/co-op governing documents;

8. A copy of a trust agreement or probated will;

9. A copy of marriage/death certification;

10. A copy of a separation agreement or divorce decree; or

11. Other items as needed.

After obligation, responsibility for the file is transferred from Application Processing to Accounts.

7.22. OBLIGATING LOAN FUNDS

A. Loan Approval. We document loan approval (obligation) by entry into the loan accounting system. This action obligates funds for the approved loan. No loan is officially approved from a legal or work measurement perspective until loan obligation is complete. When the accounting system establishes the loan account and obligates the funds for the loan, we get confirmation in the form of a loan number, which is different from the DCMS application number. Loan numbers are unique to each loan and remain permanently assigned to the case file.

B. Post Obligation. After obligation, responsibility for the file is transferred from Application Processing to Accounts. If a commitment letter was not required or all outstanding commitment requirements have been satisfied, the file is then forwarded for preparation of loan closing documents. If the case file has a commitment letter, phone contact should be made and a letter must be forwarded to the borrower.

1. Cancellation. If we do not receive satisfactory documents by the deadline (including any grace period established by the PDC), the case file should be forwarded to loan modification for possible cancellation.

7.23. NOTIFICATION TO BORROWER OF LOAN APPROVAL

We must notify the applicant in writing of a loan approval.

A. For all disaster business loans, you must advise the borrower that, in addition to disaster loan assistance, SBA offers business management and technical assistance services, and other management assistance through SBA's resource partners, e.g. the SBDC, SCORE, and WBC.

B. Truth in Lending Act (TILA). Regulation Z is issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act. The purpose of this regulation is to promote the informed use of consumer credit by requiring certain disclosures. It requires that SBA provide specific lending disclosures for home disaster loans. It does not apply to loans for business purposes and loans to non-natural persons (e.g. corporations, partnerships, etc.). The amount of the loan and whether it is secured does not affect this requirement.

The following documents are required as specified below:

1. Truth-in-Lending Disclosure Notice. This Notice must be provided with the loan closing documents to all individual home loan borrowers.

2. Notice of Right to Cancel/Notice of Right to Rescind. Two copies must be provided to all individuals who will be subject to a security interest in their principal dwelling as a result of the disaster loan.

This includes applicants, co-applicants, guarantors (whose guarantee is secured by an interest in their principal residence) and co-owners of the property on which the lien is secured even if they are not applicants or guarantors.

3. Explanation of Notice of Right to Cancel. This page is to be attached to each Notice of Right to Cancel/Notice of Right to Rescind and to be given, together with that form, to all persons who receive that form.

WITHDRAWAL AND DECLINE

7.24. WITHDRAWAL OF APPLICATIONS

Withdrawing an application, either at the applicant's request or by SBA does not constitute a processing decision. However, the rules relating to reacceptance requests apply (see paragraph 7.25).

A. Types of Withdrawals.

1. At Applicant's Request. We can withdraw an application at any time during processing based on a written or verbal request from the applicant. When an applicant verbally requests to withdraw the application during processing, you must note the conversation in the Chron Log.

2. By SBA. We must withdraw applications which cannot be processed due to an inability to verify losses (documented by Loss Verifier's written comment), a "no-record" response from the IRS regarding a tax transcript request, or because of a lack of (or incomplete) response to a Loan Processing request for additional information (7-day letter). Our withdrawal letter must specify what information is needed and also state the reacceptance deadline.

3. Case File Consolidation. Applications from entities with identical ownership (including sole proprietorships) may be consolidated into a single application at the option of the applicant. You may discuss the possibility of case file consolidation if:

a. The ownership structure of the damaged businesses is identical; and

b. The owner(s) completed a separate application for each business.

Upon the applicant's agreement, you may combine the applications into one case file and withdraw the other(s).

B. Reacceptance Rights. Generally, the withdrawal letter should include 6-months for an applicant to request reacceptance of a withdrawn application.

7.25. REACCEPTANCE OF WITHDRAWN APPLICATIONS

A. General Rule. Applicants can request reacceptance of withdrawn applications.

NOTE: Reaccepted files that do not have an original verification should be forwarded to the DVC for inspection.

B. Method and Deadline for Requesting. Generally, requests must be in writing, and received within 6 months from the date of the withdrawal. Verbal requests may be granted on a case-by-case basis with justification in the Chron Log.

C. Content of Request. When applicable, the applicant must provide all information specified in our withdrawal letter.

D. Late Requests. Generally we will not reaccept an application if more than 6 months have elapsed since the date of the withdrawal. Generally, applicants should file a new application; however, the CD/PDC may permit updating of the existing application in some cases.

You must obtain current financial and credit information before processing the application.

E. Reaccepted Applications.

1. We do not reaccept applications without reasonable assurance we can make a loan decision with the new information. This avoids withdrawing an application a second time.

2. Applications that lack essential information after reacceptance may again be withdrawn. When a subsequent withdrawal occurs, the applicant's deadline is the latter of the original deadline or 30 days from the date of the subsequent withdrawal.

NOTE: You must obtain updated DOB information on all requests for reacceptance. This enables you to determine if the proposed loan duplicates assistance from other agencies. DOBs include, but are not limited to FEMA, insurance proceeds, grants programs and awards from voluntary agencies. In addition a CBR and/or D&B should be obtained if the previous report is greater than 180 days old.

7.26. DECLINE OF APPLICATIONS

If you recommend decline, you should address ALL decline reasons. You should advise the applicant in writing of each reason for decline and the reconsideration rights. If a critical eligibility issue or lack of documentation precludes full processing, the letter to the Applicant should advise that all processing issues have not been addressed.

NOTE: You should follow the standard decline language for all original decline letters. In the event you determine that the standard decline language is not appropriate, a custom letter is acceptable; however, this should be the exception and used only in rare cases.

7.27. FAIR CREDIT REPORTING ACT

NOTE: The Fair Credit Reporting Act amended the Consumer Credit Protection Act (Regulation Z)

A. Whenever we decline a loan because of information contained in a credit report, our decline letter must also include the name and address of the credit reporting agency.

B. Whenever we decline a home loan because of information obtained from other than a credit reporting agency, our decline letter must advise the applicant (s) that they may

submit a written request for disclosure of the nature, not the source, of the information upon which we based the decline action. They must do this within 60 days of notification.

1. This applies if the decline concerned the applicant's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

2. While the law does not require disclosure to an applicant of the SOURCE of the information received in a direct inquiry, the intent of the law is that we MUST give the applicant enough facts to be able to refute or challenge the accuracy of the information.

7.28. DECLINE OF BUSINESS/EIDL (B/E) LOANS

B/E loans are restricted to business physical and economic injury loans for the same legal entity. (See paragraph 7.3 B, for associated files exception). When the applicant applies for physical losses, we automatically include an EIDL.

If you are processing a physical business loan and a decline becomes apparent for reasons which also affect the EIDL decision, do not fully process the EIDL. In these cases, the decline letter for the physical loan must state: "Due to the nature of this decline, we have not fully analyzed your economic injury. Should you seek reconsideration, we will then determine your eligibility for economic injury disaster loan assistance."

7.29. RECONSIDERATION OF DECLINED LOAN APPLICATIONS

A. General Rule. Declined applicants can present additional information which may overcome the reason(s) for the decline. Whenever the applicant requests a reconsideration of our previous lending decision, the case file should be assigned to a new Loan Officer for processing. This is done in order to provide a fresh look at all the information in an effort to provide the applicant every opportunity to obtain loan approval.

NOTE: You must obtain updated DOB information on all requests for reconsideration. This enables you to determine if the proposed loan duplicates assistance from other agencies. DOBs include, but are not limited to FEMA, insurance proceeds, grants programs and awards from voluntary agencies. In addition a CBR and/or D&B should be obtained if the previous report is greater than 180 days old.

B. Method and Deadline for Requesting Reconsideration. Requests should be in writing and received within 6 months from the date of the initial decline letter. It is not necessary for the applicant to file a new application in these cases.

C. Late Requests. We should not reconsider an application if more than 6 months have elapsed since the date of the initial decline. Generally, applicants must file a new application; however, the AA/DA or designee may permit updating of the existing application in some cases.

D. Content of Request. The written reconsideration request must contain all significant new information to overcome all of the initial decline reasons. If the most recent financial statements are older than 12 months, business loan applicants must provide current financial statements. SLOs can accept these requests if the applicant complied with the terms of the decline letter.

E. Decline Upon Reconsideration. The reason(s) specified in the initial decline letter does not preclude you from declining an applicant's request for other valid reasons. If you recommend decline at reconsideration, you should address all aspects of processing and consider all decline reasons. The reconsideration decline letter should state the following:

1. The reason(s) the applicant was initially declined;

2. Whether or not the applicant was able to overcome the original decline reason(s); and

3. Any new decline reason(s), if applicable.

NOTE: The letter to the applicant should also indicate 30 days to request an appeal of our decision. However, if the decline upon reconsideration contains any **new reason** not previously conveyed to the applicant, we can extend the time frame to a total of 90 days (the standard 30 days plus an additional 60 days), with approval from the AA/DA or designee.

F. Only an official at the same or higher level as the official who took the final action to decline the original loan application has the authority to take final action on reconsidered applications.

G. Summary Decline. When processing the applicant's request for a reconsideration of a summary decline it is considered an original action because:

1. The applicant did not receive an application; or

2. The application was not formally accepted.

H. Reconsideration of an Auto-Decline or Pre-LV Review Decline. For reconsideration purposes, treat Auto-Decline and Pre-LV Review declines like any other original decline action.

I. Lack of Information for Reconsidered Applications. Applications that lack essential information after acceptance for reconsideration may be withdrawn. When a subsequent withdrawal occurs, the applicant's deadline is the greater of the original deadline or 30 days from the date of the subsequent withdrawal.

7.30. RECONSIDERATION WHEN MAJOR SOURCE OF EMPLOYMENT (MSE) DETERMINATION WAS DENIED

Applicants initially declined for MSE classification are subject to different reconsideration rights.

A. The applicant must provide written support that it meets one of the following employment criteria:

1. Employed 10 percent or more of the entire work force within the commuting area of a geographically identifiable community, no larger than a county; provided that the commuting area does not extend more than 50 miles from such community; or

2. Employed 5 percent or more of the work force in an industry within the disaster area and, if the concern is a nonmanufacturing concern, employed no less than 50 employees in the disaster area or, if the concern is a manufacturing concern, employed no less than 150 employees in the disaster area; or

3. Employed no less than 250 employees within the disaster area.

NOTE: You must aggregate employees of concerns sharing common business premises to determine MSE status of a non-profit applicant owning the premises.

B. The ACDAP will reconsider the prior determination giving consideration to all information submitted, document the recommendation, and forward the case file to the CD/PDC.

C. The CD/PDC must:

1. Take final action on recommendations not to classify an applicant as an MSE; or

2. Forward the case file to the AA/DA for approval of MSE status.

7.31. RECONSIDERATION OF DECLINE FOR EXCEEDING APPLICABLE SIZE STANDARDS

Size standards apply to eligibility of EIDL applicants only. Applications initially declined for size are subject to different reconsideration rights.

A. Initial (informal) size determinations are to be performed using the Size Determination Worksheet housed in DCMS. The decline actions are taken at the SLO level.

B. Following an initial (informal) size decline the applicant may request a formal size determination. The applicant must submit an SBA Form 355, "Application for Small Business Size Determination", with the request. There is no time limitation for making a formal size determination for purposes of financial assistance [13 CFR §121.303(e)].

C. Formal size determinations are to be performed using the Size Determination Worksheet housed in DCMS. The decline action is to be concurred with by the SLO, ACDAP, and ACDA, prior to the final action taken by the CD/PDC. A custom decline letter explaining the basis for the decision should be prepared and signed by the CD/PDC.

D. Following a formal decline for size, the applicant may petition the Office of Hearings and Appeals (OHA) in Washington, DC The appeal petition must be served and filed within

15 days after receipt of the formal size determination decline letter [13 CFR §134.304(a)(2)].

E. Size determinations do not count as "actions" for purposes of the reconsideration and appeal process.

7.32. APPEAL OF RECONSIDERATION

A. General Rule. An Applicant declined a second time (at reconsideration) can appeal the decision. Whenever an applicant requests an appeal (further reconsideration) of our previous lending decision, the case file should be assigned to a new Loan Officer for processing. This is done in order to provide a fresh look at all the information in an effort to provide the applicant every opportunity to obtain loan approval.

NOTE: You must obtain updated DOB information on all requests for reacceptance. This enables you to determine if the proposed loan duplicates assistance from other agencies. DOBs include, but are not limited to FEMA, insurance proceeds, grants programs and awards from voluntary agencies. In addition a CBR and/or D&B should be obtained if the previous report is greater than 180 days old.

B. Method and Deadline for Requesting. Requests should be in writing and received within 30 days of the date of the decline letter.

NOTE: If the reconsideration decline contained any new reason not previously conveyed to the applicant in the initial decline letter, we can extend the time frame to a total of 90 days (the standard 30 days plus an additional 60 days) if approved by the AA/DA or designee.

C. Content of Request. All requests must include the applicant's justification to reverse the prior decline action(s). If the applicant does not provide new information, you should contact the applicant to see if any is available. Using all available information, you must reprocess the case file to a decision.

D. Final Review - Approvals. The ACDAP has final approval authority. The CD/PDC does not have to sign approval recommendations unless there is a split.

E. Final Review - Declines. The CD/PDC has final decline authority. The CD/PDC's decision is final unless:

1. The CD/PDC does not have authority to approve the loan or action; or

2. The CD/PDC refers the matter to the AA/DA; or

3. The AA/DA, upon a showing of special circumstances, requests the PDC to forward the matter to the ODA for final consideration. Special circumstances include policy reconsideration or reevaluation by other elements of the Agency, alleged improper acts by SBA personnel or others, or other considerations.

CHAPTER 8

LOAN MODIFICATIONS

8.1. LOAN MODIFICATION

A. Amendments and Modifications to Loan Authorizations. You must address a request from a borrower by approving, denying or withdrawing the request. The outcome of the modification request must be communicated to the borrower in writing. You must make any necessary amendment(s) or modification(s) to any term or condition of an LAA in the case file. These actions are subject to the same policies governing loan processing.

NOTE: A loan modification request from a borrower should be in writing if it involves a material change or if additional documentation is required. Such actions include, but are not limited to: Alternate Use of Proceeds, Collateral Change, Flood Insurance Change, Increase (including refinance and contractor malfeasance), Lower Interest Rate, Mitigation, Reinstatement, Subordination, Addition or Deletion of a Borrower or Guarantor, and Relocation.

B. Authority to Approve, Decline, or Withdrawal Loan Modifications. The action must be approved at the appropriate level of authorization. Loan modifications generally require concurrence by an SLO, but there are exceptions which allow you to modify a loan without concurrence and also cases which require additional authority.

1. An SLO, Attorney Advisor, Loan Officer (1, 2, or 3 as delegated), Paralegal Specialist (2 or 3), or a Customer Service Representative (CSR) can approve certain types of loan modification actions without obtaining the next higher level of authority. These actions are limited to:

a. Approving an extension of the disbursement period for a period of time not to exceed six (6) months beyond the original disbursement deadline, and no greater than 12 months from the date of the LAA.

b. Approving an extension of the deadline to return the loan closing documents. The extension may not exceed 60 days from the date of the loan modification action and may not exceed 12 months from the date of the LAA.

c.* Changing and/or updating telephone numbers.

d.* Changing and/or updating e-mail address.

e.* Providing pay-off information.

f. Canceling loans in their entirety (no disbursements have been made), after a written or verbal request from the borrower, except where the borrower has experienced an adverse change.

* These actions can also be done by a CSR located in the CSC.

2. Rule of Two and Exceptions. Loan Modifications generally require concurrence to finalize a recommendation. SLOs may take final action to approve modifications to disaster loans with the following exceptions:

   a. Any action that does not require concurrence;

   b. Any modification to add/delete a borrower, to change collateral, or to change a guarantee requires concurrence at the previous highest level of authorization up to and including CD/PDC. (For those loans which were previously approved by AA/DA, CD/PDC will be the final authority for these actions);

   c. Any split decision requires action at the next higher level; and/or

   d. Any modification which includes one of the actions listed in this paragraph requires approval at the level cited.

3. ACDAP is required as the final authority when a modification approves an action addressing one of the following issues:

   a. Any loan increase which causes the loan to exceed $750,000, up to and including $1 million;

   b. Any modification which increases the interest rate;

   c. Any modification which defers the first payment due date from 13 months up to and including 24 months total. (See MREIDL exception Appendix 9);

   d. Any modification which approves a request for appeal of reconsideration.

   e. Any modification which justifies approval of a loan to a borrower with a federal judgment lien;

4. CD/PDC is required as the final authority when a modification approves an action addressing the following issues:

   a. Any action which requires a formal size determination; or

   b. Any modification (other than an action that does not require concurrence or minor typographical correction) of a home loan made to an SBA employee in which there is no potential conflict of interest requires action by CD/PDC;

   c. Any modification which approves disaster mitigation in an amount greater than $50,000 up to and including $100,000 on home loans and $50,000 up to and including $200,000 on business loans.

   d. Any modification allowing a loan to a business other than a sole proprietorship which has a principal holding a 50 percent or ownership

interest who is more than 60 days delinquent on child support and who has divested their interest in the business.

5. AA/DA is required as the final authority when a modification approves an action addressing one of the following issues:

   a. Any modification action which determines that the borrower is an MSE;

   b. Any loan increase which causes the loan to exceed $1 million;

   c. Any modification (other than an action that does not require concurrence or minor typographical correction) of a home loan made to an SBA employee, with a potential conflict of interest, and all business loans requires action by AA/DA;

   d. Any modification which defers the first payment due date beyond 24 months; or

   e. Any modification which defers principal and interest payments up to 3 year for private colleges and universities.

   f. Any modification which approves mitigation in excess of $100,000 on home loans and in excess of $200,000 on business loans.

6. Subsequent Modifications and Authority. For modifications that include an action requiring higher level review, final authority at the appropriate higher level is required. However, subsequent modifications may be completed at the SLO level with the exception of those actions noted in subparagraph B 1 above.

   Example: A loan increased to more than 1 million dollars will require AA/DA as the final authority for approval. However, if the same loan has a subsequent modification to decrease the loan, SLO level authority will generally be sufficient.

C. Authority to Withdrawal, No Action, Denial, Reconsideration, Formal Size Modifications.

1. Withdrawal. Any SLO may concur with a recommendation to withdraw a loan modification request.

2. No Action. Any SLO may concur with a recommendation for No Action on a loan modification request.

3. Denial. Any SLO may deny a loan modification request the first time it is made. However, loan modifications involving reconsideration and appeal (further reconsideration) of previously denied requests may require higher authority.

4. Reconsideration. A denial of a reconsideration request requires final authority at the same level or higher than the original denial of the request, unless the request is for MSE status or a Formal Size determination.

a. Appeal of Reconsiderations For a request previously denied upon reconsideration, the CD/PDC has final decline authority unless the CD/PDC is not authorized to act on the requested action, the CD/PDC refers the matter to AA/DA, or AA/DA requests that the PDC forward the matter to ODA.

b. Reconsideration when MSE Determination was Denied. The CD/PDC must take final action on recommendations not to classify an applicant as an MSE at reconsideration; or forward the case file to the AA/DA for approval of MSE status.

5. Formal Size Determination. Informal size determinations may be taken at the SLO level. Following an informal size decline, the applicant may request a formal size determination. Formal size decline actions are taken at the CD/PDC level. Following a formal decline, the applicant may petition the Office of Hearings and Appeals (OHA) within 15 days after receipt of the formal size determination decline letter.

D. Truth in Lending Act. Any modification of the terms set forth in the Truth in Lending Disclosure Statement (see paragraph 7.23 B) that changes the amount in the Total of Payments block of the form requires that you issue a new Truth in Lending Disclosure Statement to the borrower(s). For undisbursed loans, any collateral change which involves the addition of a borrower's or principals' primary residence requires that the Accounts Department issue a new Notice of Right to Cancel/Notice of Right to Rescind for the new collateral only.

E. Asset Sale Loans. SBA cannot modify a loan that has been sold to a third party.

8.2. DEADLINE EXTENSIONS

A. All LAAs include deadlines for closing and disbursement. Extension of the closing and/or disbursement period is at the sole discretion of SBA.

1. Upon receipt of a request (verbal or written) from the borrower or at the expiration of the closing / disbursement deadlines, a modification action is necessary to review whether an extension of the deadline is warranted.

2. You must consider all circumstances surrounding the delay which prevented compliance with the original deadline. Extensions should be considered if the borrower's circumstances support them.

3. A review of the borrower's credit and financial standing will be required of all loans that have not been fully disbursed within 12 months from the date of the original LAA, and annual reviews thereafter until the loan is fully disbursed. Disbursement extensions may not exceed the annual review period unless a credit and financial review is completed. The review will ensure that there have not been any adverse changes in the borrower's credit or financial condition that would impact his/her ability to repay the loan before we make further disbursements that may be at risk. At a minimum, the review must address the financial analysis, credit reports (CBRs and /or D&B reports), and IRS

transcripts, and should update the information if necessary. If an adverse change occurs, cancellation may be warranted. This applies to undisbursed and partially disbursed loans.

B. If extension is not possible, and the deadline has expired, cancellation of the loan may be warranted.

8.3 LOAN DECREASE AND CANCELLATION

A. At Request of Borrower. When we receive a written or verbal request, we may cancel all or reduce any undisbursed portion of an approved loan. On a verbal request ensure the action is appropriate.

B. Notification to Borrower Prior to Loan Modification.

1. Before we initiate an action to cancel all or reduce any funds, we must mail a letter giving 14 calendar day notice (letter can be issued by Accounts or Loan Processing) of the pending cancellation/reduction. The letter must specify the action the borrower can take to prevent the cancellation. This letter must specifically inform the borrower that the loan will be cancelled if the borrower fails to submit the requested information.

   EXCEPTION: A 14-day letter is not required when the cause for the cancellation is due to the borrower's request; we received notification that the borrower has filed for bankruptcy; or SBA receives a foreclosure notice on the damaged or collateral property.

2. Prior to the completion of the loan modification for cancellation of the loan, the Loan Officer should contact the borrower to explain our action, the reasons for the cancellation and the reinstatement rights. The Loan Officer should advise the borrower that written notification is forthcoming which will include information regarding the method and deadline for requesting reinstatement (see paragraph 8.4). If the loan was cancelled in full (no disbursement made) the Loan Officer should also advise the borrower upon approval of the reinstatement request, new loan closing documents may be issued and that the original documents may no longer be valid.

C. Actions by SBA. We may initiate action to cancel all or reduce any portion of an approved loan if:

1. The borrower fails to complete and return all LCDs by the deadline; or

2. The borrower does not satisfy all terms and conditions of the LAA; or

3. A substantial adverse change (including, but not limited to, notice of bankruptcy, foreclosure, or lien, undisclosed judgments or lawsuits, death of borrower, etc.) in the borrower's financial or other condition occurs (with consideration of whether a referral to FEMA is appropriate); or

4. The borrower does not qualify for full disbursement during the disbursement period; and

5. The borrower does not request or receive approval for extension; or

6. The borrower does not provide all documentation requested in a commitment letter; or

7. The borrower receives insurance or other recoveries which eliminates or reduces the uncompensated loss.

D. Notification to Borrower Post Loan Modification.

1. The borrower must be sent written notification of the cancellation/decrease action and the reinstatement rights. If the cancellation was due to the borrower's failure to provide requested documentation, including any information required through a commitment letter, the cancellation letter must include a statement of the outstanding documents needed to reinstate the loan.

2. If the borrower has recorded the SBA security instrument (e.g. Deed of Trust, UCC Filing, etc.), and the loan is cancelled in full it must be released. You should include written notification within the loan modification letter indicating that the Accounts Department will forward a release of lien document to the borrower under separate cover.

3. If the borrower has recorded the SBA security instrument (e.g. Deed of Trust, UCC Filing, etc.), and the loan is reduced below the secured level (no disbursements have been made above the secured level) you should release the collateral. The loan modification letter should indicate that the Accounts Department will forward a release of lien document to the borrower under separate cover. The exceptions that may prevent the release of the lien would be that the loan is delinquent or other adverse information has been received (e.g. bankruptcy etc.).

E. Documentation: You must document all cancellations/decreases through a loan modification using the appropriate cancellation codes.

8.4. REINSTATEMENT OF CANCELLED LOANS

Borrowers may request reinstatement of all or any portion of a cancelled loan. We cannot reinstate any portion of a partially cancelled loan unless the borrower is current on the payments of their SBA disaster loan, in compliance with all loan conditions, and has a satisfactory payment history.

A. Method and Deadline for Requesting Reinstatement: All requests for reinstatement should:

1. Be in writing and be made within 6 months of the date of the cancellation; and

2. Provide justification that we should reinstate the funds.

a. If the loan was cancelled due to a failure to provide necessary documentation the borrower must provide those documents prior to reinstatement.

NOTE: We should not accept a request for reinstatement of a cancelled loan for which the borrower wishes to use his eligibility to relocate unless the borrower has identified a property and is prepared to move forward.

B. Late Reinstatement Requests - General Rule: We will not reinstate funds if:

1. Six months have elapsed from the date of the cancellation or reduction action; or

2. There is no outstanding balance, the loan was cancelled in full, or the disbursed balance has been paid in full.

NOTE: The borrower may cite the reasons for the delay as the basis for late filing of a new application.

C. Late Reinstatement Requests - Exception to General Rule: We may reinstate funds if:

1. We cancelled undisbursed funds because the borrower could not qualify for full disbursement due to reasons beyond the borrower's control; and

2. The borrower has a satisfactory payment history on SBA loans; and

3. The borrower submits a request for additional time, and the request is received within 6 months of overcoming the reasons for the delay in not meeting the original reinstatement deadline (e.g. final insurance settlement, obtaining a building permit); and

4. The borrower provides all outstanding requirements listed in the cancellation letter; and

5. The remaining balance of this SBA loan has not been paid in full.

D. Loan Closing Documents

1. Upon reinstatement of a loan which was cancelled in full, we will issue new loan closing documents, including a new Promissory Note with a current Note date. An exception can be made when the borrower has already executed and returned the previous documents (including a recorded mortgage); a Supervisory Attorney Advisor should determine if the executed documents are acceptable.

2. Upon reinstatement, you must ensure that the maturity does not exceed the maximum allowed of 30 years from the date of the first Promissory Note issued for the loan.

8.5. INCREASES IN PHYSICAL AND ECONOMIC INJURY LOANS

Generally, a borrower will make a written request for a loan increase to cover additional disaster-related damages as soon as possible after discovering the need for additional funds.

A. The increase must be to cover eligible damage. This may include, but is not limited to:

1. Accelerated costs;

2. Hidden damage;

3. Post-Approval Building Code Requirements or other Federal requirements (Additional building code requirements not known to be in effect when the loan was approved; or building code requirements passed by the appropriate authority after the loan was approved);

4. Indirect Costs and Expenses such as engineering fees, initial insurance premiums, etc.; and/or

5. Contractor Malfeasance (see paragraph 8.5 D).

   Exception: a borrower requesting an increase as a result of changed MSE status need not provide evidence of additional damages provided that the losses for which they are requesting additional funds were previously included in the Loss Verification Report.

B. SBA will not consider a request for a loan increase received more than two (2) years from the date of loan approval. The AA/DA may waive the two-year limit after finding extraordinary and unforeseeable circumstances.

C. <u>Processing Requests for Increases</u>

1. Increases are handled by loan processing and are subject to reasonable requests for financial statements and other processing data. If an increase puts the loan into the secured category, issuance of a new or amended LAA is necessary to incorporate all required loan conditions.

2. The same or a higher level of authority as the person approving the original loan must approve the increase.

D. <u>Contractor Malfeasance:</u> SBA may increase a disaster loan up to the administrative lending limits to fund additional costs incurred due to contractor malfeasance in the repair of a damaged site or in the construction of a relocation property (subject to normal credit review). The amount of the funds attributable to the malfeasance must be determined by Loss Verification. The case file must include documentation of the type and amount of the malfeasance (e.g. borrower's letter, notification from the local building authority, etc.). The approval must contain the following conditions:

1. SBA will require a performance bond (see paragraph 7.18 B);

2. SBA must take an assignment of any proceeds from any claim or lawsuit against the contractor if such an action has been initiated at the time of processing. If such an action is initiated subsequent to processing, the borrower must notify SBA.

3. SBA will not require the borrower to file a complaint, claim, or lawsuit against the contractor, but will insert a condition into the LAA requiring the borrower to notify SBA if such action is subsequently initiated.

Final approval of the loan increase must be taken at the ACDAP level or higher.

NOTE: EIDL funds are not eligible for consideration under contractor malfeasance.

8.6. DISASTER LOAN SERVICING RESPONSIBILITY

ODA is responsible for creating and maintaining the collateral file, for performing necessary service action(s) on the loan, and forwarding the file to the servicing office in a timely manner after full disbursement. Once the electronic case file and the collateral files are transferred, the servicing office assumes responsibility.

CHAPTER 9

LOAN CLOSING AND DISBURSEMENT

9.1. ROLES AND RESPONSIBILITIES

Loan disbursement functions are completed by employees performing their duties as Attorney Advisor (AA), and Case Manager (CM)

Exceptions may be made with proper justification by ACDA.

A. Attorney Advisor Responsibility. AA's perform several distinct functions within that role.

1. Draft Review (performed prior to loan obligation)

2. Commitment Review

3. Loan Modification Review

4. General Duties

B. Case Manager Responsibility. In general a CM is primarily responsible for the management, closing, and disbursement of all loans in your portfolio. A CM may hold one of several different positions (Paralegal Specialist or Attorney Advisor, but may include others).

9.2. CLOSING

After issuance of loan closing documents, closing of the loan and return of the documents to the PDC can follow one of two paths. Disaster loans can be closed by mail or when centers are open in the field, the borrower may have the option to close the loan face-to face with a Customer Service Representative (CSR). In these cases, the CSR can recommend an initial disbursement and expedite the loan closing documents (LCDs) to the PDC.

NOTE: The borrower must show identification at all loan closings. The identity of the borrower can usually be confirmed with a U.S. Federal or State/Territory issued photo ID (e.g. driver's license, passport). A copy should be placed in the case file.

9.3 LOAN CLOSING DOCUMENTS (LCD)

LCDs are required based upon multiple factors, such as: the specific type of borrower, the specific type of guarantor, if any; the specific terms and conditions of the loan, and the specific type of property pledged for collateral, if any. All borrowers must execute the LAA and Note.

9.4. LOAN DISBURSEMENT PROCESS

A. Disbursement Stages. Generally, loans are closed in stages to ensure funds are spent according to the Loan Authorization and Agreement.

1. Initial Disbursement. Generally, the initial disbursement is made within 5 days of receipt of all documents and requirements necessary to support an unsecured disbursement. This includes: The Note, LAA, AIP (if required), flood insurance by law (if required), and any other loan condition that is required prior to any disbursement. See SOP paragraph on each item listed for specific disbursement requirements.

2. Disbursement to and including $50,000. To disburse above the unsecured loan limit, up to and including $50,000, the following must be received: hazard insurance, flood insurance for policy reasons (if required) collateral and any other loan condition that is required prior to disbursement in excess of the unsecured loan limit. See SOP paragraph on each item listed for specific disbursement requirements.

3. Disbursement in excess of $50,000. To disburse in excess of $50,000, the following must be received (if applicable): building permit , determination of the total project cost, prior injection, receipting, title policy, progress inspection, and any other loan condition that is required prior to disbursement in excess of $50,000. See SOP paragraph on each item listed for specific disbursement requirements.

4. Disbursements in excess of $250,000. To disburse in excess of $250,000 the following must be received (if applicable): title search and progress inspection, and any other loan condition that is required prior to disbursement in excess of $250,000. See SOP paragraph on each item listed for specific disbursement requirements.

NOTE: Depending on the use of proceeds and loan conditions not all loans will require incremental disbursements. For example, relocations, and loans approved as reimbursement of funds previously spent may be disbursed in its entirety at the initial disbursement.

B. Exceptions: Any exceptions to the guidelines noted above should be clearly documented in the case file by a Supervisory Attorney Advisor or higher.

9.5. CLOSING DEADLINES & EXTENSIONS

A. Limitation on Time for Return of Closing Documents (LCDs). LAAs include a provision limiting the time available to borrowers to return all closing documents. Borrowers have 60 calendar days from the date of the LAA to sign and return all documents and satisfy all requirements needed for an initial disbursement.

1. If the borrower does not return the LCDs within 30 days, you should mail a reminder notice emphasizing the approaching deadline. By notifying the

borrower in writing at least 14 days prior to the deadline, SBA is allowed to cancel the loan if the borrower fails to meet this requirement.

2. The borrower may submit and SBA may, in its sole discretion, accept documents after 2 months of the date of the LAA.

B. Disbursement Period. All LAAs contain a standard paragraph requiring the borrower to arrange for and obtain all loan funds within 6 months from the date of the LAA. The CD/PDC may, on a disaster by disaster basis, increase the standard time frame to 12 months.

C. Extension of Disbursement Period. On a case-by-case basis, SBA may, in its sole discretion, allow an extension to permit disbursement more than 6 months after the date of the LAA.

D. Credit and Financial Review. A review of the borrower's credit and financial standing will be required of all loans that have not been fully disbursed within 12 months from the date of the original LAA and annual reviews thereafter until the loan has been fully disbursed. The review will ensure that there have not been any adverse changes in the borrower's credit or financial condition that would impact their ability to repay the loan before we make further disbursements that may be at risk. No disbursements can be made after the anniversary date of the original LA&A without a current review.

NOTE: The credit and financial review is performed within a LMOD by an LO.

9.6. GENERAL GUIDELINES

Loan funds are disbursed in accordance with the Loan Authorization and Agreement (LAA). Exceptions may be made with proper justification by a Supervisory Attorney Advisor.

The PDC orders all disbursements, under the following general guidelines:

A. Review of Executed Documents: The Case Manager must review the case file to determine if all documents are properly prepared and executed:

1. If initialed by the borrower, minor corrections may be made on the documents (other than the Note). No corrections may be made to the promissory note.

2. The documents should generally be signed as the signature lines appear. However, minor variations are acceptable (such as initials, suffixes and similar issues) as long as:

a. All evidence points to a single person who is known by various, slightly different names; and,

b. The file is documented accordingly.

NOTE: If there is an indication that a variation is indicative of a different individual, Supervisory Attorney should be consulted.

B. Case File Maintenance

1. Each document received must be scanned so it can be stored electronically in the case file.

2. Original collateral documents must also be maintained in a separate collateral file.

3. After final disbursement of loan funds and ensuring files are complete; both the case file and the collateral file must be forwarded to the appropriate servicing office.

C. Duplication of Benefits. (DOB) Prior to every disbursement, you must complete a DOB check to determine if all insurance, grants, and/or other recoveries have been addressed.

Unless an insurance claim is closed, you must determine that no further payouts have been made, and you should document the case file accordingly.

1. If you determine a possible DOB exists; forward the case file to Loan Modification to address any potential DOB. A disbursement may be made with LP concurrence where it is clear that the pending disbursement will not constitute a DOB and the appropriate loan modification will be made after the disbursement.

NOTE: Any insurance or other compensation award (e.g., FEMA Home Repair, ARC, etc.) up to $500 for each award and $1,000 cumulative is considered a *de minimis* amount for duplication of benefits purposes and eliminates the need for a loan modification. The only documentation required will be a comment in the Chron Log of the *de minimis* amount. Any subsequent loan modification that addresses the loan amount must consider the prior *de minimis* funds.

D. FEMA Reimbursements. When there is a DOB for ONA (Other Needs Assistance) with FEMA, the Loan Officer must add a condition to the LAA requiring reimbursement to FEMA.

The initial loan disbursement must be for the exact amount (dollar and cents) of the FEMA funds.

E. Other Recoveries. You must also deduct the net amount received, which would duplicate an SBA loan (e.g. HUD, Community Development Block Grants, etc.).

F. Donations and Free Labor: The following are potential duplication of benefits that may require the final loan amount to be reduced and will be addressed during the disbursement process where all receipts from the borrower are reviewed and a determination of potential duplication of benefits can be made.

1. Free Labor and Materials. If free labor or materials result in a cost savings in a project, the unused loan funds cannot be used to fund elective upgrades in the project.

2. Overhead and Profit. The amount of overhead and profit that has been deemed by LV to be excessive if the applicant business or an affiliated business is used to repair disaster damage must be deducted.

G. Unsecured Loans. Generally a loan is fully disbursed upon the return of the properly executed Note, LAA, evidence of flood insurance (where appropriate), and receipt of other necessary documents; such as Assignments of Insurance (AIP), eligibility, Agreement of Compliance (Form 601), waivers, etc.

H. Secured Loans. You may make an initial disbursement up to the secured threshold if all requirements for an unsecured disbursement (subparagraph G) have been met. Additional funds may be disbursed when the appropriate security instruments, insurance and other closing requirements have been properly satisfied. Prior to initiating any disbursement, you should fully assess the loan terms and conditions and know the status of any pending requirements and how that impacts your disbursement decision.

I. Delinquency Check: You cannot authorize any disbursement unless all loan payments are current. As such, you must complete a delinquency check for all loan(s) in repayment status prior to subsequent disbursement of any loan funds.

1. First Payment Due Date. Generally the first payment due date is 5 months from the date of the Note. This reflects a standard deferment of 4 months. It recognizes that disbursements are seldom completed on the Note date, and that disaster recovery is seldom accomplished immediately upon obligating.

2. Requests for Deferment. A loan modification must be requested to address deferment of any loan payments(s).

NOTE: If the first payment due date arrives before the initial disbursement is made, you should request a deferment immediately prior to initiating the disbursement.

9.7. LOAN CONDITIONS

The conditions for disbursement of the loan are established by the Loan Officer and set forth within the LAA. Disbursements beyond a certain dollar amount are often conditional upon satisfaction of various conditions. Files may have “prior to” requirements, so disbursement(s) may be limited by the amount or the category of proceeds at the initial and subsequent disbursement stage. Prior to disbursement, review the file to determine if any of these conditions remain pending and limit disbursement as required by the pending conditions.

9.8. WAIVER OF ELIGIBILITY

A. SBA must not duplicate eligibility for multiple borrowers. If all owners are not included on the loan as a borrower, the loan condition requires an agreement from the non-borrower owner(s) to waive their eligibility to apply for SBA disaster loan assistance. You must obtain this agreement at closing, prior to any disbursement of loan funds.

B. If a non-borrower owner is unwilling or unavailable to waive eligibility, you must forward the file to loan modification for the Loan Officer to determine if a deletion of the requirement for the waiver of eligibility is appropriate. In rare cases, ownership may be shared by numerous widely scattered owners (for example, among multiple descendants of an original owner). In the event that a joint owner cannot be located, the borrower must provide written certification of the inability to locate the joint owner.

NOTE: If the property is used as collateral, a waiver of eligibility does not eliminate the general need for the non-borrower owner to execute the required security document(s).

9.9. AGREEMENT OF COMPLIANCE

Whenever disaster loan funds in excess of $10,000 are allocated for real estate construction/repair, we require all borrowers to execute SBA Form 601, "Applicant's Agreement of Compliance", prior to disbursement of any loan funds for real estate construction/repair.

However, no agreement of compliance is required if the work has already been completed, and the file is documented accordingly.

9.10. REQUIREMENTS FOR REAL ESTATE REPAIR

The amount of loan funds allocated to real estate construction/repair (including LHI) dictates when and if certain s conditions are required. Debris removal, landscaping, relocation (where no construction is required) are generally not associated with real estate construction requirements. In addition a purchase of a manufactured home generally does not require real estate construction conditions other than obtaining a permit for installation.

You must ensure that the borrower has satisfied the construction requirements, as dictated by the LAA (see paragraph 7.18). If during the disbursement process, the borrower cannot satisfy these specialized conditions, on a case by case basis a Supervisory Attorney Advisor may waive any of these conditions with written justification in the case file.

A. Exception (s): If LV has indicated that the project is 100% complete and SBA loan funds are going to reimburse the borrower for the repairs completed, and the prior injection requirement , if any, has been met; then the submission of a building permit, construction contract, SBA Form 601, etc., is not required.

When you have multiple properties on the same loan, you do not aggregate the properties to determine if you need a building permit, written construction contract, etc. for each damaged property. Building Permits: Based on local requirements ACDA may determine that permits are not necessary, and we will then consider the requirement met without specific evidence from each borrower.

NOTE: If a complete and fully executed construction contract indicates that the contractor has obtained the required permit (s), we will then consider the requirement met (estimates or work quotes are not sufficient).

9.11. INSURANCE REQUIREMENTS

We require insurance on loans to protect both the damaged property (insurable real property and contents) and all insurable collateral. If the property is in a SFHA we will require flood insurance, or if the damage was caused by rising water we may also require flood insurance.

If the property was damaged by a specific peril recognized by local lenders and not generally included in standard hazard insurance coverage, we may require insurance specific to that peril, such as windstorm coverage.

Generally, SBA does not require insurance on any property unless taking it as collateral and/or funds are allocated in the use of proceeds for its replacement or repair.

You must ensure that the borrower has provided proof of coverage for all insurance requirements on the loan.

A. General Requirements

1. Loan Closing Requirements. For loans requiring insurance, the borrower must submit evidence of insurance coverage as required by the LAA.
The type of insurance required must be specific to the type of property insured (real estate; boats; machinery and equipment, etc.) and must name SBA as mortgagee or loss payee on the policy if we are taking the property as collateral.

2. Temporary Location. If contents coverage is required, a borrower utilizing a temporary address must provide contents coverage at the temporary address prior to disbursement of contents above the secured threshold while at that location. Upon return to the damaged property location, the borrower must provide contents coverage at that location prior to additional disbursements for contents.

3. Multiple Properties. For disbursements in excess of the secured threshold (or for any disbursements if the property is in a SFHA), when there are multiple properties with insurance requirements but you have not received evidence of the required coverage for all of the properties, you may disburse (on a per property basis) only for those properties with evidence of coverage. No disbursement can be made for those locations for which evidence of coverage has not been provided. You may proceed with disbursement for the insured locations, subject to the following criteria:

   a. There is proper insurance in place on the property included in the disbursement;

   b. The proceeds disbursed shall not exceed the amount of proceeds allocated for the insured property;

   c. The collateral in place must be sufficient to support the current disbursement.

   d. Review and concurrence by a Supervisory Attorney Advisor.

4. Widely Scattered Property. If insurance coverage is required for property (e.g. billboards or vending machines) dispersed across a wide geographic area, the coverage does not have to be location specific but should adequately cover the property used in the ordinary course of business.

5. Insurance Requirements. Generally the guidance is to require 80% of the insurable value for hazard insurance, or the lesser of; the total of the disaster loan, the insurable value of the property, or the maximum coverage available for flood insurance. The borrower should work with his/her insurance agent to determine the correct insurable value and amount required.

NOTE: In cases where the insurable value certified by the insurer is significantly lower than SBA's estimate of the value, you should consult with loan processing to determine if the collateral is impacted.

B. Flood Insurance.

1. Flood Insurance Requirement. SBA requires the borrower to maintain flood insurance either by law or for policy reasons (by policy). The requirement applies to all property which the borrower is receiving SBA funds and/or for all property being taken as collateral on the loan.

a. By Law: When a property is located in a Special Flood Hazard Area (SFHA) flood insurance is required on all insurable (under a flood insurance policy) property.

b. By Policy: Flood insurance is required on all loans above the secured threshold which meet the "flood by policy" criteria as defined in paragraph 7.14 H.

2. Amount of Coverage. SBA requires that flood insurance coverage be the lesser of 1) the total of the disaster loan (the sum of all use of proceeds allocations), 2) the insurable value of the property, or 3) the maximum insurance available.

3. Evidence of Purchase of Required Flood Insurance Coverage. The LAA requires the borrower to submit evidence of the purchase of the required flood insurance coverage to SBA prior to any disbursement when flood insurance is required by law or when prior to a disbursement in excess of the unsecured threshold for flood insurance required by policy.

Evidence means a copy of the issued policy or other proof of the coverage obtained (i.e. proof of payment from the borrower to an insurance company). A copy of application for insurance is not acceptable unless the borrower submits proof of payment.

NOTE: When loan funds are allocated for uninsurable (flood policy) property (e.g. boats, automobiles, etc.) you may disburse these funds even if the borrower has not provided sufficient proof of coverage for the insurable property (contents and real property) as long as the disbursement is below the secured level.

C. Hazard Insurance

1. Loan Closing Requirements. Generally, the borrower must furnish hazard insurance and specific peril insurance, if stipulated within the LAA, equal to at least eighty percent (80%) of the insurable value of the property to be insured.

This requirement applies to all property for which the borrower is receiving SBA funds and for all collateral on the loan. The type of insurance required must be specific to the type of property insured (real estate; boats; machinery and equipment; etc.).

a. Determination as to whether Coverage is Sufficient. Coverage is sufficient if:

(1) The amount of coverage is 80% of the insurable value of the property as estimated by SBA, or

(2) The file reflects the insurance company or agent verified the property is insured for 80% or more of its maximum insurable value.

2. Builders Risk/Materials and Equipment Coverage. The hazard insurance requirement applies to properties which are under construction. Standard hazard insurance policies are presumed to provide sufficient coverage unless the property has been substantially damaged or is undergoing total reconstruction. If the hazard policy does not sufficiently cover the structure, materials and equipment associated with the repairs, or when a standard hazard policy is unavailable due to the damages to the structure, you may accept a Course of Construction Policy (such as a Builder's Risk Policy) in lieu of hazard insurance covering the structure and the materials and equipment while the structure is being repaired until which point the hazard policy provides sufficient coverage. If the contractor making the repairs has an insurance policy which covers the property on the worksite, the borrower does not need to provide additional coverage.

NOTE: Borrowers must maintain the stipulated coverage throughout the entire term of the loan even if the loan has been sold to a third party.

9.12. COLLATERAL REQUIREMENTS

SBA policy establishes collateral requirements based on a balance between protection of the Agency's interest as a creditor and as a provider of disaster assistance.

SBA secures its collateral interest by taking a lien against the property. This lien is perfected through documentation specific to the collateral property, which is recorded within the county or state where the property is located. If the collateral is located in a "non-notice" state, you should send a letter to the senior lien holder(s) requesting advance notice of any foreclosure actions against the borrower.

Sometimes, not all owners are applicants. This may arise among family members due to inheritance provisions, life estates, estranged spouses, etc. In these cases, we generally require the non-applicant owner to execute our lien documents (mortgage/deed of trust, etc.).

A. Unsecured Loan Limit.

Collateral is required on the various types of SBA disaster loans. We can accept security when the applicant voluntarily offers collateral on loans of lesser amounts. For example, an applicant may wish to take advantage of the mortgage interest deduction for tax purposes, and may freely offer the property as security. In these cases we would accept security for the loan which would otherwise be unsecured.

1. The Limit for Unsecured Physical Disaster Loans (Home and Business) is $14,000 in agency declarations and $25,000 in presidential declarations.

2. The Limit for unsecured and secured EIDL. All EIDL in excess of $25,000 ($50,000 MREIDL) require collateral.

If the loan amount or aggregate loan amounts (see below) do not exceed the unsecured thresholds identified above, the loan is referred to as an "unsecured loan" and does not require collateral. Otherwise, the loan is referred to as a "secured loan", and collateral is required.

B. Aggregation. If the borrower has multiple disaster loans stemming from the same disaster event, these loans are referred to as "companion loans". The Loan Officer determines whether collateral is required on each companion loan by totaling the amount of each loan. If the aggregate amount exceeds the thresholds identified above, collateral is required. (See paragraph 7.11).

NOTE: Do not aggregate the amounts of the physical loan(s) and EIDL(s) to determine if collateral is required. It is possible to have a secured physical loan and an unsecured EIDL companion loan or vice versa such as a secured home loan in the amount of $100,000 and unsecured companion EIDL of $25,000.

C. Collateral from Business Tenants. Certain condition requirements apply when the collateral is located at leased premises.

1. Assignment of Lease. An assignment of lease is generally only required when a lien is taken on structures or improvements on leased land (leasehold mortgage, security interest in structures, etc.). If we are taking an assignment of lease as collateral, additional requirements may be needed (see paragraph 7.11 D 1 a, b, c.).You must verify that the requirement has been met prior to disbursement of loan funds in excess of the secured threshold.

D. Secured Loans to Associations. Generally, we secure loans to associations by taking both of the following:

1. A Loan Officer includes an assignment of a special assessment passed by the association in accordance with its Bylaws, unless prohibited by state law. (The association must assess each unit owner in an amount sufficient to provide loan

repayment.) The assessment shall be approved by a majority of the full membership or such higher limit as provided for by the association's governing documents. The Accounts Department will prepare the assessment (see paragraph 7.11 E).

a. You must verify that the borrower has passed the special assessment prior to disbursement of funds.

2. A loan office may further require A mortgage or deed of trust on real property separately deeded such as office space, public area or recreational facility and owned by the association, where permitted by law.

E. When Taking Manufactured Housing as Collateral. The security instrument (a deed of trust, mortgage, etc.) required to take the underlying land as collateral does not place a lien against the manufactured home unless the manufactured home has been permanently attached or "affixed" to the underlying land (See paragraph 3.13 C3). You must determine the proper method of securing our collateral interest in the manufactured home within the state where the collateral exists and forward file for a LMOD if any changes are necessary.

F. Release/Retention of Collateral. When a loan is reduced to an amount below the secured threshold generally the Loan Officer will release the collateral. Situations when the Loan Officer would not release the collateral would include but is not limited to; payment status is delinquent, notification of bankruptcy, borrower requested the loan to be secured.

An applicant's refusal to pledge available preferred collateral (e.g., real estate) is a basis for canceling a loan (see 8.3).

NOTE: For undisbursed loans, any collateral change which involves the addition of a borrower's or principal's primary residence requires that the Accounts Department issue a new Notice of Right to Cancel for the new collateral only.

9.13. TITLE SEARCH AND TITLE POLICY

Once collateral conditions, disbursement conditions and proof of prior disbursed funds requirements are met, disbursement(s) up to $250,000 may be made before meeting the title search requirements. We will require a title policy only when the loan funds are designated for the purchase of the property and is required prior to disbursement in excess of $50,000.

A. We require a title or record search for loans more than $250,000. The Loan Officer may justify the requirement for loans of $250,000 or less; however, these exceptions should be rare.

1. When there are companion loans, a title search is required when the aggregate loan amount is in excess of $250,000, and the same property is taken as collateral on each loan.

2. A title search is required prior to disbursement in excess of $250,000.

NOTE: We will not require a title search on the disaster damaged property when the Loan Officer determines that the relocation property is sufficient to fully secure the loan.

9.14. EVIDENCE REQUIRED FOR PREVIOUSLY DISBURSED LOAN FUNDS

A. Prior to any subsequent disbursement where the aggregate amount of physical loan funds disbursed would exceed $50,000 the borrower must submit evidence satisfactory to SBA that physical loan funds previously disbursed are being spent in accordance with the LAA.

This evidence may include one or more of the following:

1. SBA Form 1366, "Borrower's Progress Certification" (with required attachments).

2. Paid receipts/invoices, cancelled checks, etc., for completed work, labor used, or materials.

3. Progress inspections by the Loss Verification Department or by a government entity that, in the opinion of either Loss Verification Department, documents progress in accordance with SBA requirements.

4. Escrow account, in accordance with paragraph 9.17.

5. Lien waivers in the total amount of all labor and materials used on the RE repair/construction from all contractors, subcontractors, and independent workers involved.

6. Paid invoices to support disbursements for equipment, furniture, inventory, etc.

7. Firm quotation or invoice if the borrower requests an advance payment to purchase larger items of M&E.

8. Other cases in which the Supervisory Attorney Advisor determines in writing that the exception to the general rule is necessary to prevent undue hardship and the risk to the Agency and the likelihood of misuse are minimal.

9.15. REFINANCING

Refinancing funds are generally not disbursed until the borrower has provided evidence of being substantially committed to completing the disaster repairs.

A. Before disbursing any refinancing funds, you should review the file for a current Credit Inquiry Letter (SBA Form 143) and determine if the disbursement may proceed prior to or without a loan modification.

1. If a completed SBA Form 143 has not been received (or is dated more than 30 days prior to disbursement), you should request a pay-off statement (written or verbal).

a. If the lien holder indicates any material discrepancies or adverse credit information in the letter or pay-off statement/information, you must send the file to loan modification to address the material discrepancy or adverse information.

b. A material discrepancy or adverse information may include but is not limited to: the pay-off amount is greater than indicated in the file; there is a pre-payment penalty; the borrower already paid off the lien; the borrower is in default, or the lien is not on the property we are attempting to refinance.

c. If the amount of payoff is less than the amount in the "Use of Proceeds" designated to refinance the lien, only the current amount owed can be disbursed. The file then needs to be routed to loan modification to reduce any remaining refinancing funds.

9.16. EIDL/MREIDL DISBURSEMENTS

EIDL: Because there are no physical repairs associated with an EIDL, we generally make full disbursement as soon as the borrower has satisfied all relevant LAA conditions.

MREIDL: Generally, we will disburse the funds in quarterly installments, unless the loan officer specifies otherwise in the LAA. If the Loan Officer decides there is a sound business reason to make only one disbursement this will be reflected in the LAA by using UP-60. However, if the Loan Officer decides to disburse serially, a UP-61 (Working Capital with Periodic Disbursement) should be used, and you should make subsequent disbursements based on the small business's continued need as demonstrated by comparative financial information. Approximately 30 days before the next scheduled disbursement, you must initiate a loan modification for a financial review. The Loan Officer will request current financial information (including balance sheets and profit and loss statements) from the borrower. A Loan Officer is to review the updated financial information and make an assessment as to the continued need for MREIDL funds prior to authorizing additional disbursements.

9.17. ESCROW ACCOUNTS AND/OR CONTROLLED ACCOUNTS

Generally, we do not disburse loans through escrow or controlled accounts. However, we may use escrow accounts when necessary to conform to State law or requirements of title companies and similar organizations, particularly relating to construction loans, purchase of real estate (including a manufactured home). In addition it may be necessary to conform to local laws such as those relating to liquor licenses or when desirable by any party involved in the transaction. In these cases a title company, the borrower's attorney, or a bank may serve as the escrow agent. When we use a controlled account, we must consider the length of time funds may remain in the account due to interest accrual.

LOAN MODIFICATIONS

9.18. LOAN MODIFICATION

A. Written Requests. A loan modification request from a borrower should generally be in writing if it involves a material change or if additional documentation is required. Such actions include, but are not limited to: Alternate Use of Proceeds, Collateral Change, Flood Insurance Change, Increase (including refinance and contractor malfeasance), Lower Interest Rate, Mitigation, Reinstatement, Subordination, Addition or Deletion of a Borrower or Guarantor, Relocation, Refinance.

B. Authority to Approve LMODS. Loan modifications are processed by Loan Officers. However, some loan modifications can be approved by an Attorney Advisor, Paralegal Specialist, or a Customer Service Representative (See 8.1 B):

C. Loan Decrease and Cancellations. (See paragraph 8.3)When we receive a written or verbal request, we may cancel or all or reduce any undisbursed portion of an approved loan. On a verbal request ensure the action is appropriate.

We may initiate action to cancel all or reduce any undisbursed portion of an approved loan if:

1. The borrower fails to complete and return all LCDs by the deadline; or

2. The borrower does not satisfy all terms and conditions of the LAA; or

3. A substantial adverse change (including, but not limited to, notice of bankruptcy, foreclosure, or lien, undisclosed judgments or lawsuits, death of borrower, etc.) in the borrower's financial or other condition occurs (with consideration of whether a referral to FEMA is appropriate); or

4. The borrower does not qualify for full disbursement during the original disbursement period; and

5. The borrower does not request or receive approval for extension; or

6. The borrower does not provide all documentation requested in a commitment letter; or

7. The borrower receives insurance or other recoveries which reduce the uncompensated loss.

D. Reinstatement of Cancelled Loans. Upon reinstatement of a loan which was cancelled in full, we will issue new loan closing documents, including a new Promissory Note with a current Note date.

1. If new documents are required and a mortgage or deed of trust (lien documents) reflecting the old Note date has been recorded, a release must be filed and a new mortgage or deed of trust reflecting the new Note date must be issued and recorded.

NOTE: When the borrower has already executed and returned the previous documents, a Supervisory Attorney Advisor, may determine if the executed documents are acceptable.

APPENDIX 1

INDEX TO FORMS AND REPORTS

This appendix contains a listing of the authorized forms and reports used in conjunction with disaster loan making.

SBA Form	(SBA Form unless otherwise identified)	Date
5	Disaster Business Loan Application	02/15
5	Disaster Business Loan Application - Spanish	01/12
5C	Disaster Home Loan Application	02/15
5C	Disaster Home Loan Application - Spanish	01/12
143	Credit Inquiry Letter	12/97
147B	Note – Secured Disaster Loans	05/00
155	Standby Agreement	09/98
159D	Fee Disclosure Form and Compensation Agreement	05/14
160	Resolution of Board of Directors	01/10
160A	Certificate as to Partners	01/10
FD-258	Applicant Fingerprint Card (FBI Form)	12/07
355	Information for Small Business Size Determination	09/09
403	Note Unsecured Disaster Loans	05/00
413	Personal Financial Statement	05/12
601	Agreement of Compliance	10/85
649	Listing Collateral Documents	03/83
700	Disaster Home/Business Loan Inquiry Record	06/12
717	Record of Congressional Inquiry	04/82
722	Equal Employment Opportunity Poster – English and Spanish	06/11
743A	Screening Checklist – Disaster Home Loans	06/11
743B	Screening Checklist – Disaster Business Loans	06/11
912	Statement of Personal History	02/13
927	Mortgage	03/73
929	Deed of Trust	10/71
1059	Security Agreement	02/04
1363	Summary Decline Letter (Presidential FEMA Referral)	09/05
1363A	Summary Decline Letter (Agency – Other Referral)	09/05
1363NR	Summary Decline Letter (Presidential No Referral)	09/05
1366	Borrower's Progress Certification	03/13
1368	Additional Filing Requirements EIDL and MREIDL	01/12
1368	Additional Filing Requirements EIDL and MREIDL Spanish	01/12
1391	Loan Authorization and Agreement	06/03
1391HBE	Catalog of Optional Loan Authorization Text	09/11

1391M	Loan Authorization and Agreement-Pre-Disaster Mitigation Loan Catalog BU/BS	6/03
1391R	Loan Authorization and Agreement Military Reserve EIDL Catalog	10/08
1643Z	7-Day Letter	10/05
1646	Disaster Home Loan Application Return Notice	12/06
1711	Certification Regarding Lobbying	08/92
1846	Statement Regarding Lobbying	08/92
2121	Notice to All Applicants (COBRA)	10/03
2122	Summary Decline Worksheet	10/13
2128	Unconditional Guarantee	05/00
2129	Unconditional Limited Guarantee	05/00
2130	Modification of Note Long Form Add Borrower	05/00
2131	Modification of Note Long Form	05/00
2132	Modification of Note Short Form Add Borrower	05/00
2133	Modification of Note Short Form	05/00
2157R	Decline Letter for Reconsiderations	08/03
2158	Truth in Lending Act Disclosure Notice	05/00
2159	Notice of Right to Cancel/ (Notice of Right to Rescind)	05/00
2161	System Access Security Request	07/11
2178	Withdrawal Letter	10/04
2202	Schedule of Liabilities	04/03
2212	Grant Repayment letter	04/03
4506-T	Request for Tax Information (IRS Form)	09/13
8821	Tax Information Authorization (IRS Form)	10/12
P-001	Request for Electronic Funds Transfer	08/12
P-003	Apply Online	05/10
P-003SP	Apply Online (Spanish)	05/10

APPENDIX 2

ACRONYMS AND DEFINITIONS

This appendix contains acronyms and abbreviations used. Acronyms and abbreviations used by other departments (DVC, Loss Verification, and Accounts) generally do not appear in this appendix.

ACRONYMS

"A"	Applicant
AA	Attorney Advisor
A/P	Accounts Payable
A/R	Accounts Receivable
AA/DA	Associate Administrator for Disaster Assistance
ACDA	Assistant Center Director Accounts
ACDAP	Assistant Center Director Application Processing
ACH	Automated Clearing House
AAR	Average Annual Revenue
ACE	Active Corps of Executives
ALE	Allowed for Living Expense
ANA	Available Net Assets (for Business Credit Elsewhere Test Purposes)
ANE	Average Number of Employees
ANW	Adjusted Net Worth
ARC	American Red Cross
ASC	Administrative Services Center
"B"	Borrower
BAC	Business Assistance Center
B/E	Business/EIDL
BRC	Business Recovery Center
BFAT	Business Financial Analysis Tool
BFE	Base Flood Elevation
CA	Cash Available
CASAD	Cash Available to Service Additional Debt
CBR	Credit Bureau Report
CBRS	Coastal Barrier Resources System
CCL	Conditional Commitment Letter
CC&Rs	Conditions, Covenants and Restrictions
CD	Center Director
CDBG	Community Development Block Grants
CE	Credit Elsewhere
CET	Credit Elsewhere Test
CHRON	Chronological Log/Chron Log
CF	Cash Flow
CFR	Code of Federal Regulations
CM	Case Manager
COBRA	Coastal Barrier Resource Area
COGS	Cost of Goods Sold
CONUS	Continental United States
Co-op	Cooperatives

CPA	Certified Public Accountant
CSR	Customer Service Representative
CSC	Customer Service Center
DAA/DA	Deputy Associate Administrator for Disaster Assistance
DCD	Deputy Center Director
D&B	Dun and Bradstreet
DCS	Data Communication System
DD	District Director
DCMS	Disaster Credit Management System
DFO	Disaster Field Office
DLB	Disaster Loan – Business
DLH	Disaster Loan – Home
DO	District Office
DOB	Duplication of Benefits
DLOC	Disaster Loan Outreach Center
DRC	Disaster Recovery Center
DVC	Damage Verification Center
ECOA	Equal Credit Opportunity Act
EEO	Equal Employment Opportunity
EI	Economic Injury
EIDL	Economic Injury Disaster Loan
EDP	Extension of Disbursement Period
ELA	Electronic Loan Application
ELE	Emergency Living Expenses
FA	Funds Available
FAA	Federal Aviation Administration
FAT	Financial Analysis Tool
FCO	Federal Coordinating Officer (FEMA)
FDIC	Federal Deposit Insurance Corporation
FDM	Fixed Debt Method
FEMA	Federal Emergency Management Agency
F & F	Furniture & Fixtures
FHA	Federal Housing Authority
FIA	Flood Insurance Administration
FIT	Failed Income Test
FMV	Fair Market Value
FOC-E	Field Operations Center-East
FOC-W	Field Operations Center-West
FOIA	Freedom of Information Act
FRB	Federal Reserve Board
FSA	Farm Service Agency
FTR	Federal Tax Return
FYE	Fiscal Year End
GAI	Gross Annual Income
GM	Gross Margin
GMI	Gross Monthly Income
GP	Gross Profit

GPM	Gross Profit Margin
HA	Housing Assistance (FEMA Rental Assistance and Home Repair Programs)
HFAT	Home Financial Analysis Tool
HOA	Homeowner's Association
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
IA	Individual Assistance (FEMA)
ICC	Increased Cost of Compliance
IG	Inspector General
IHP	Individuals and Households Program (FEMA)
IP	Injury Period
IPERIA	Improper Payment Elimination and Recovery Improvement Act
IPO	Initial Public Offering
IRA	Individual Retirement Account
IRM	Information Resource Manager (computer specialist)
IRS	Internal Revenue Service
JFO	Joint Field Office
LAA	Loan Authorization and Agreement
LAC	Local Assistance Center
LCD	Loan Closing Document
LHI	Leasehold Improvements
LLE	Limited Liability Entity
LO	Loan Officer
LP	Loan Processing
LV	Loss Verifier
MAFD	Maximum Acceptable Fixed Debt
M&E	Machinery & Equipment
MCM	Modified Contribution Margin
MFD	Monthly Fixed Debt
MH	Manufactured Housing
MREIDL	Military Reserve Economic Injury Disaster Loan
MSE	Major Source of Employment
NAICS	North American Industry Classification System
NEMIS	National Emergency Management Information System
NCE	No Credit Elsewhere
NEC	Net Earnings Clause
NEHRP	National Earthquake Hazards Reduction Program
NOD	Notice of Disqualification
NFIP	National Flood Insurance Program
NFIRA	National Flood Insurance Reform Act NP Net Profit
NPSC	National Processing Service Center (NPSC)
OCONUS	Off Continental United States
ODA	Office of Disaster Assistance
ODP	Office of Disaster Personnel
ODSEE	Office of Strategic Engagement and Effectiveness

OHA	Office of Hearings and Appeals
OIG	Office of Inspector General
OMB	Office of Management and Budget
ONA	Other Needs Assistance (FEMA)
OPA	Otherwise Protected Area
OSO	Office of Security Operations
PA	Public Assistance (FEMA)
PDA	Preliminary Damage Assessments
PDC	Processing and Disbursement Center
PDMLP	Pre-Disaster Mitigation Loan Program
PITI	Principal, Interest, Taxes and Insurance
P&L	Profit & Loss (Statement)
PNP	Private non-profit
PP	Personal Property
Pre-App	Pre-Application
Pre-LV	Pre-Loss Verification Review Process
PUD	Planned Unit Development
QA	Quality Assurance
RA	Regional Administrator
RE	Real Estate
RECON	Reconsideration of SBA's Decline Decision
RMA	Risk Management Association
RO	Regional Office
RV	Recreational Vehicle
SBA	Small Business Administration
SBDC	Small Business Development Center
SCORE	Service Corp of Retired Executives
SecAg	Secretary of Agriculture Designation
SFHA	Special Flood Hazard Area
SLO	Supervisory Loan Officer
SLV	Supervisory Loss Verifier
SOP	Standard Operating Procedure
SS	Social Security
SSA	Social Security Administration
SSN	Social Security Number
TILA	Truth in Lending Act
UP	Use of Proceeds
USC	United States Code
USDA	United States Department of Agriculture
VA	Veterans Administration
WBC	Women’s Business Center
WEP	Wage Earner’s Plan (Chapter 13)
X, Y, Z	
YTD	Year to Date

APPENDIX 3

TYPES OF FIELD ASSISTANCE CENTERS

1. Joint Field Office (JFO). FEMA and the State establish a non-public facility to coordinate activities of all the participating disaster relief agencies and organizations. Usually, the participating agencies and organizations have representatives present at the JFO to conduct and monitor their own internal operations and to assist in the inter-agency coordination effort.

2. Disaster Field Office (DFO). SBA establishes a non-public facility to coordinate its activities and provide administrative and management functions for disaster recovery. In Presidential declarations, SBA does not usually establish its own DFO; SBA normally co-locates with FEMA and the State in the JFO.

3. Disaster Recovery Center (DRC). A joint Federal/State public facility where representatives of all participating Federal, State, and local disaster relief agencies and organizations issue program applications and related information. Depending on the size and scope, FEMA may set up more than one DRC. SBA is represented in each DRC.

4. Disaster Loan Outreach Center (DLOC). A public facility established and staffed by SBA during an Agency or Presidential declaration to assist disaster loan applicants in obtaining applications, returning completed applications, and completing disaster loan application forms. SBA staff is also available to answer questions concerning SBA's programs, close loans, and help with loan modifications, reconsideration, and late application requests. Usually, SBA is the only Agency present at a DLOC and depending on the size of a disaster may establish more than one center. In some cases, SBA remains at a former DRC location after FEMA and other agencies have left, at which point it becomes a DLOC.

5. Business Assistance Center (BAC). A facility established by State and/or local officials and staffed by various organizations including SBA to assist businesses in recovering from the disaster.

6. Business Recovery Center (BRC). A facility established and staffed by SBA, along with various other organizations and SBA's resource partners during an Agency or Presidential declaration to assist businesses.

APPENDIX 4

SBA MINIMUM INCOME LEVELS

For Disaster Home/Renter Loan Consideration

(Households with income below these levels are referred directly to IHP by FEMA Customer Service Representatives.)

These tables do not apply to households with self-employment income.

Minimum Income Guidelines for the 48 Contiguous States and the District of Columbia

$ Minimum Income Levels			
Family Size	Weekly	Monthly	Annual
1	449	1,945	23,340
2	454	1,966	23,595
3	571	2,474	29,685
4	688	2,981	35,775
5	805	3,489	41,865
6	922	3,996	47,955
7	1,039	4,504	54,045
8	1,156	5,011	60,135
For each over 8 add	117	508	6,090

NOTE: The figures noted above are a SAMPLE table as of 10/01/2014.

Tables are updated at the beginning of the fiscal year.

DCMS uses the Income Test tables based on when the business rules for the application are run and not based on the declaration date of the disaster.

APPENDIX 5

APPLICATION FORMS

DISASTER LOAN APPLICATION PACKAGES

HOME LOAN APPLICATION FORMS

A. The following forms are contained in every home application package:

1. Cover Sheet

   a. How Do You Apply for an SBA Disaster Loan?

   b. What Will SBA Do Next?

2. SBA Form 5C, "Disaster Home Loan Application.

3. IRS Form 8821/4506-T, "Tax Information Authorization".

4. Fact Sheet.

5. Other Forms as appropriate, including, but not limited to:

   a. SBA Form 2121," Notice To All Applicants." (This form is included in all loan applications for a disaster that includes a Coastal Barrier Island Resource Area),

   b. Cautionary notice regarding Texas Homestead Laws, etc.

   c. SBA Form P-003, "Apply Online" Guidance

BUSINESS LOAN APPLICATION FORMS

B. The following forms are contained in every business application package:

1. SBA Form 5, "Disaster Business Loan Application".

2. SBA Form 413, "Personal Financial Statement". One form is required for each proprietor, each limited partner who owns 20 percent or more interest, each general partner, and each stockholder owning 20 percent or more voting stock.

3. IRS Form 8821/4506-T, "Tax Information Authorization".

4. SBA Form 2202, Schedule of Liabilities.

5. SBA Form 1368, "Additional Filing Requirements for EIDL".

6. Fact Sheet.

7. SBA Form 2121, "Notice To All Applicants." (This form is included in all loan applications for a disaster that includes a Coastal Barrier Resource Area.)

8. SBA Form P-003, "Apply Online" Guidance

MILITARY RESERVE ECONOMIC INJURY APPLICATION FORMS

C. The following forms are contained in every MREIDL application package:

1. SBA Form 5, "Disaster Business Loan Application".

2. SBA Form 413, "Personal Financial Statement".

3. IRS Form 8821/4506-T, "Tax Information Authorization".

4. SBA Form 2202, "Schedule of Liabilities."

5. SBA Form 1368, "Additional Filing Requirements for EIDL".

6. Military Reserve Fact Sheet.

7. SBA Form P-003, "Apply Online" Guidance

APPENDIX 6

HOME LOAN SUMMARY DECLINE ANALYSIS

Distinct Summary Decline worksheets are issued for the continental United States, the OCONUS states of Alaska and Hawaii, and U.S. territories such as Guam, American Samoa, Puerto Rico, and U.S. Virgin Islands.

A. Write the applicant's name and FEMA registration number, if applicable, in the space provided at the top of the appropriate Summary Decline Worksheet (SBA Form 2122). If the applicant(s) answers YES to any of the three questions at the top of the form stop completing the Summary Decline Worksheet and continue screening the application. No signatures are required on the Summary Decline Worksheet. If they do not answer YES to any of the questions proceed to the Minimum Income Test section on the Summary Decline Worksheet.

B. Minimum Income Test

1. You will be using the applicant's pre-disaster household size which includes the applicant and any dependents claimed. You will also be using the applicant's gross monthly household income. Household income includes but may not be limited to wages, alimony, child support payments, and interest and dividend income from savings and investments, retirement, pension, social security or disability payments. Using the information provided and comparing it to the Income Test Table (see Appendix 4), determine if the applicant's gross monthly household income is below the minimum level for the household size. If the income is below the minimum level recommend a Summary Decline and obtain concurrence in the spaces on the bottom of the Summary Decline Worksheet. Issue the appropriate Summary Decline letter. Advise the applicant(s) that if there are any changes to the decision, they will be notified. Stop if the applicant does not pass the Minimum Income Test there is no need to complete the rest of the Summary Decline Worksheet.

C. Preliminary Fixed Debt Method

1. If the applicant passes the Minimum Income Test you will now perform the Preliminary Fixed Debt Method to determine possible repayment ability. If the gross annual household income listed in the application is $25,000 or less, use the left column for the calculation. If the gross annual household income is greater than $25,000, use the right column.

2. Enter the applicant's gross monthly income on line A.

3. Multiply the gross monthly income by the factor in the column you are using and enter the results on line B.

4. Enter the total of the monthly debt listed on the application on line C.

5. Subtract the debt on line C from the factored income on line B. If the amount on line D is negative, the applicant does not have repayment ability. Recommend a Summary Decline and obtain concurrence in the spaces on the bottom of the Summary Decline Worksheet. Issue the appropriate Summary Decline letter. Advise the applicant(s) that if there are any changes to the decision, they will be notified by the PDC.

   Based on these calculations, if the applicant is not a Summary Decline, proceed with application issuance or screening. No signatures are required on the Summary Decline Worksheet.

APPENDIX 7

FILING REQUIREMENTS

DISASTER HOME LOAN APPLICATION

Filing Requirements

REQUIRED FOR ALL LOAN APPLICATIONS:

- Complete and sign this application form (SBA Form 5C)
- Complete and sign the Tax Information Authorization (IRS Form 8821/4506-T) enclosed with this application. This income information, obtained from the IRS, will help us determine your repayment ability

NOTE: Applicant(s) who submit only a home loan application are required to provide an IRS Tax Information Authorization form 8821/4506-T for themselves, but are not required to provide this form for any business(s) they may own.

WHILE NOT NECESSARY TO ACCEPT YOUR APPLICATION, YOU MAY BE REQUIRED TO SUPPLY THE FOLLOWING INFORMATION TO PROCESS THE APPLICATION. IF REQUESTED, PLEASE PROVIDE WITHIN 7 DAYS OF THE INFORMATION REQUEST:

- If any applicant has changed employment within the past two years, provide a copy of a current (within 1 month of the application date) pay stub for all applicants
- If we need additional income information, you may be asked to provide copies of your Federal income tax returns, including all schedules

IF SBA APPROVES YOUR LOAN, WE MAY REQUIRE THE FOLLOWING ITEMS BEFORE LOAN CLOSING. WE WILL ADVISE YOU, IN WRITING, OF THE DOCUMENTS WE NEED.

- If you own your residence, a COMPLETE legible copy of the deed, including the legal description of the property
- If the damaged property is your primary residence, proof of residency at the damaged address
- If you had damage to a manufactured home, a copy of the title. If you own the lot where the home is located, a COMPLETE legible copy of the deed, including the legal description of the property
- If you have damage to an automobile or other vehicle, proof of ownership (a copy of the registration, title, bill of sale, etc.)

DISASTER BUSINESS LOAN APPLICATION

Filing Requirements

FOR ALL APPLICATIONS THE FOLLOWING ITEMS MUST BE SUBMITTED.

- This application (SBA Form 5), completed and signed

- Tax Information Authorization (IRS Form 8821/4506-T), completed and signed by each applicant, each principal owning 20 percent or more of the applicant business, each general partner or managing member; and, for any owner who has a 50 percent or more ownership in an affiliate business. Affiliates include, but are not limited to, business parents, subsidiaries, and/or other businesses with common ownership or management

- Complete copies, including all schedules, of the most recent Federal income tax returns for the applicant business; an explanation if not available

- Personal Financial Statement (SBA Form 413) completed, signed, and dated by the applicant (if a sole proprietorship), each principal owning 20 percent or more of the applicant business, and each general partner or managing member

- Schedule of Liabilities listing all fixed debts (SBA Form 2202 may be used)

ADDITIONAL REQUIREMENTS FOR MILITARY RESERVE ECONOMIC INJURY (MREIDL):

- A copy of the essential employee's notice of expected call-up to active duty, or official call-up orders, or release/discharge from active duty

- A written explanation and financial estimate of how the call-up of the essential employee has or will result in economic injury to your business, and the steps your business is taking to alleviate the economic injury

- MREIDL Certification Form P-0002, which includes:
  - Your statement that the reservist is essential to the successful day-to-day operations of the business
  - Your certification that the essential employee will be offered the same or a similar job upon the employee's return from active duty
  - The essential employee's concurrence with your statements

ADDITIONAL INFORMATION MAY BE NECESSARY TO PROCESS YOUR APPLICATION. IF REQUESTED, PLEASE PROVIDE WITHIN 7 DAYS OF THE INFORMATION REQUEST.

- Complete copy, including all schedules, of the most recent Federal income tax return for each principal owning 20 percent or more, each general partner or managing member, and each affiliate when any owner has a 50 percent or more ownership in the affiliate business. Affiliates include, but are not limited to, business parents, subsidiaries, and/or other businesses with common ownership or management.

- If the most recent Federal income tax return has not been filed, a year-end profit-and-loss statement and balance sheet for that tax year

- A current year-to-date profit-and-loss statement

  - Additional Filing Requirements (SBA Form 1368) providing monthly sales figures

APPENDIX 8

CITIZENS, NONCITIZEN NATIONALS, AND QUALIFIED ALIENS

A. Citizens and Noncitizen Nationals: Definition.

U.S. C Title 8, the Immigration and Nationality Act, defines citizens and nationals, and establishes that a citizen or noncitizen national is eligible for a Federal public benefit, including a loan provided by an agency of the United States.

1. Citizen is defined in 8 U.S.C, section 1401:

The following shall be nationals and citizens of the United States at birth:

a. A person born in the United States, and subject to the jurisdiction thereof;

b. A person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: Provided, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

c. A person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;

d. A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

e. A person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;

f. A person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;

g. A person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years: Provided, that any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 288 of

Title 22 by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person.

(1) Honorably serving with the Armed Forces of the United States, or

(2) Employed by the United States Government or an international organization as defined in section 288 of Title 22, may be included in order to satisfy the physical-presence requirement of this paragraph. This proviso shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date; and

h. A person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.

2. Non-Citizen National is defined in 8 U.S.C., section 1408:
Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens, of the United States at birth:

a. A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

b. A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;

c. A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in such outlying possession; and

d. A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years.

(1) During which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and

(2) At least five years of which were after attaining the age of fourteen years.

The proviso of section 1401(g) of this title shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.

B. Qualified Alien. U.S.C. Title 8 states that an alien who is not a qualified alien is not eligible for any Federal public benefit, including a loan provided by an agency of the United States (8 USC 1611(a) and (c)). 8 USC 1641(b) defines a qualified alien:

The term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is:

1. An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.],

2. An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158],

3. A refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157].

4. An alien who is paroled into the United States under section 212(d) (5) of such Act [8 U.S.C. 1182 (d) (5)] for a period of at least 1 year,

5. An alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [8 U.S.C. 1231 (b)(3)] (as amended by section 305(a) of division C of Public Law 104–208),

6. An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153 (a)(7)] as in effect prior to April 1, 1980; [1] or

7. An alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

C. Citizenship Documents. The following documents as defined by the U.S. Customs and Immigration Service (USCIS) may be used to establish U.S. citizenship, without further legal review:

1. Birth Certificate, issued by a U.S. State (if the person was born in the United States), or by the U.S. Department of State (if the person was born abroad to U.S. citizen parents who registered the child's birth and U.S. citizenship with the U.S. Embassy or consulate);

   NOTE: Only those Puerto Rican birth certificates issued after July 1, 2010 will be recognized as proof of U.S. Citizenship.

2. U.S. Passport, issued by the U.S. Department of State;

3. Certificate of Citizenship, issued to a person born outside the United States who derived or acquired U.S. citizenship through a U.S. citizen parent; or

4. Naturalization Certificate, issued to a person who became a U.S. citizen after 18 years of age through the naturalization process.

   NOTE: As defined by the U.S. Department of State, Bureau of Consular Affairs, the following documents cannot be used to establish citizenship:

a. Voter Registration Card

b. Army Discharge Paper

c. Social Security Card

D. Qualified Alien Documentation. The following documents, issued by U.S. Citizenship and Immigration Services (USCIS), may be used to establish an individual as a qualified alien, without further legal review:

1. Permanent Resident Card (Except expired conditional cards) (Form I-151, formerly known as the Alien Registration Card or "Green Card");

2. Resident Alien Card (some may not have an expiration date);

3. Expired Conditional Permanent Resident Card if accompanied by a copy of Form I-797 reciting approval of a petition to remove the conditions and/or approving a new petition for Permanent Resident status;

4. FORM I-797 NOTICE OF ACTION which recites approval of a petition for Permanent Resident Status.

NOTE: Generally, Employment Authorization Cards, Visa Documents, and Stamps do not convey qualified alien status; but, instead, establish a legal basis to be in the country. An applicant is not eligible unless the legal basis upon which the applicant has been admitted is a covered category, as defined by 8 USC 1641.

E. Alternate Documentation Other situations may also allow for a qualified alien status. Examples include, but are not limited to: asylum, refugee status; parole; those withheld deportation; or, those who have been battered or subject to extreme cruelty.

Consult with the ACDA for questions concerning these claims of qualified alien status and:

1. Additional documents that may be used to prove an applicant as a qualified alien under the conditions listed in subparagraph B. (if the documents listed in subparagraph D are not available); or

2. Additional documents that may be used to prove U.S. citizenship and identification if the documents listed in subparagraph C are not available.

APPENDIX 9

MILITARY RESERVE ECONOMIC INJURY (MREIDL)

POLICIES AND ELIGIBILITY

SBA will make a low interest, fixed rate loan to a small business employing a military reservist if the reservist is called up to active military duty during a period of military conflict, and is an essential employee critical to the success of the business's daily operation whose call-up has caused or will cause the business substantial economic injury. The interest rate on a Military Reserve EIDL will be 4 percent per annum or less. SBA will publish the interest rate quarterly in the Federal Register.

A. The following address differences from our existing economic injury program.

1. **Declaration** – The Centers will not receive the standard declaration paperwork for this program nor will we regularly publish MREIDL declaration information in the Federal Register.

   One declaration number will cover all 50 states and territories.

2. **Screening** – All applications will be entered into the DCMS Pre-Application Entry and Application Entry Processes.

   a. Use the "Declaration #" that is in effect as of the date the application was received, not the date of the essential employee's activation orders.

   b. The filing period begins the date the essential employee receives a notice of expected call-up and ends one year after the date the essential employee is discharged or released from active duty.

   c. The filing requirements also include:

      (1) A copy of the essential employee's notice of expected call-up, official call-up orders, or release/discharge from active duty; and

      (2) A written statement from the business owner (with concurrence from the Reservist) that the Reservist performs duties that are essential to the operation of the small business. This statement must detail the Reservist's duties and responsibilities and explain why these duties and responsibilities can't be completed in the Reservist's absence; and

      (3) A statement from the business owner detailing the step(s) the business is taking to alleviate the economic injury; and

      (4) The business owners' certification that the essential employee will be offered the same or similar job upon the employee's return from active duty.

As MREIDL applications may be filed while the Reservist is away on duty, the person that has the Reservist's power of attorney can make the certification, or application if the Reservist is the owner of the applying small business.

3. **Processing of Applications** – You must give priority to MREIDL applications and attempt to process them prior to other loan applications. (Small Business Act, 7 (b) (1) (H))

   a. As in our current EIDL program, eligibility is limited to non-agricultural small businesses that do not have Credit Available Elsewhere. Additional exclusions from program eligibility are consistent with our current EIDL program and are included in 13 CFR §123.502.

   b. Although we can accept applications with a notice of expected call-up, we cannot complete all processing until we have a copy of the essential employee's official call-up orders. Upon receipt of an acceptable application, process the file to a decision. If a decline or withdrawal is recommended, decline or withdraw the file using normal procedures. If an approval is possible, withdraw the file using code WD-66 pending receipt of the official call-up notice. Upon receipt of the official notice, reactivate the file and complete processing.

   c. All applications under this program should be processed using Phase II. For the MREIDL, the incident period will begin with the deployment of the essential employee to active duty and will end upon release from active duty. Assume a 12-month injury period unless a more exact injury period is known.

4. **Terms and Conditions**

   a. **Interest Rates** – The interest rate to be assigned to MREIDL approvals is set for the entire declaration period. However, once the appropriate interest rate is assigned to an approved MREIDL loan, it remains fixed. The proper interest rate to be applied to any MREIDL loan is SBA's published EIDL interest rate at the time the MREIDL case file is approved.

   b. **Deferment**– The first payment for MREIDL loans only will be due 15 months from the date of the note. The SLO may approve this deferment. Any further deferrals are subject to the approval authority limitations in paragraph 7.10 G.

NOTE: By law, the first payment must be deferred to the later of 1) 1 year from the date of the initial disbursement, or 2) the period during which the essential employee is on active duty. At the time of initial disbursement, the loan terms must be reviewed to assure that this statutory requirement has been met. If necessary, the deferment should be extended to bring the loan into compliance with the required deferment.

c. **Collateral** – Generally, SBA will not require an applicant to pledge collateral to secure a Military Reserve EIDL of $50,000 or less.

d. **Essential Employee** – an individual (whether or not the owner of the small business) whose managerial or technical expertise is critical to the successful day-to-day operations of the applicant small business.

e. **Period of Military Conflict** – is (1) a period of war declared by Congress, or (2) a period of national emergency declared by Congress or the President, or (3) a period of contingency operation. A contingency operation is designated by the Secretary of Defense as an operation in which our military may become involved in military actions, operations, or hostilities (e.g., peacekeeping operations). Please note that a period of military conflict does not include instances when the Governor may activate the Guard as a result of a disaster event.

f. **Loan Closing Documents** – The LAA does not reference disaster damage (both secured and unsecured) but identifies the loan as an MREIDL.

As the small business owner(s) must certify that the essential employee will be offered the same or a similar job upon their return from active duty, the following condition **(OC-MRE)** should be included in every MREIDL:

"OC-MRE: Prior to any disbursement, Borrower will provide certification, with concurrence by the Reservist, that the Reservist is essential to the day-to-day operations of the business, and that the Reservist will be offered the same or similar job upon return from active duty."

g. **Disbursements** – MREIDL: Generally, we will disburse the funds in quarterly installments, unless the loan officer specifies otherwise in the LAA. If the Loan Officer decides there is a sound business reason to make only one disbursement this will be reflected in the LAA by using UP-60. However, if the Loan Officer decides to disburse serially, a UP-61 (Working Capital with Periodic Disbursement) should be used, and you should make subsequent disbursements based on the small business's continued need as demonstrated by comparative financial information. Approximately 30 days before the next scheduled disbursement, you must initiate a loan modification for a financial review. The Loan Officer will request current financial information (including balance sheets and profit and loss statements) from the borrower. A Loan Officer is to review the updated financial information and make an assessment as to the continued need for MREIDL funds prior to authorizing additional disbursements.

APPENDIX 10

RAPID HOME AND BUSINESS LOAN PROCESSING GUIDELINES

Effective April 25, 2014 a change was made to CFR Title 13 § 123.6 which now allows for processing both home and business loan applications based on the applicant's credit without the requirement of a complete cash flow analysis.

Criteria for Home Loans:

The loan officer is responsible for addressing all standard eligibility requirements as normal such as delinquent child support, federal debt, character exceptions, primary residence and ownership.

Maximum Loan Amount: The maximum loan amount is $240,000.

Minimum Credit Score: SBA will identify a credit score which establishes "Strong Credit". At least one applicant or co-applicant must have a credit score which equals or exceeds the score used to identify strong credit in order to qualify for RAPID. An applicant/co-applicant with a 0 or NULL credit score will be eligible for RAPID Home processing provided there is another applicant/co-applicant with a score greater than or equal to the strong credit score level.

Companion Files: An application with an active companion is eligible for RAPID processing, regardless of whether the companion is also eligible for RAPID.

Income: All income must be verified using IRS tax transcripts and it can include either wages or self-employment (Schedules C, E, F and no copies are needed). The business income will be taken from the IRS tax transcripts and will not be spread. The income level is a gross annual income (sum of all applicants) greater than or equal to $70,000. Please refer to paragraph 6.1 B for guidance when using retirement income that is not reflected on the IRS tax transcripts. The requirement to obtain paystub(s) for applicant(s) with current employment of two years or less can be eliminated if the stated income (5C) and the amount shown on the FTR is equal to or greater than $70,000 and repayment is supported. The loan officer must use the lesser of the FTR income or the stated income.

Application Stage: RAPID Home processing can be used on all original processing, as well as an application that was previously withdrawn; summary declined or had a pre-lv override. In addition it can be used in the processing of a loan modification if the file was approved as RAPID and the result of the financial change loan modification is within the RAPID loan amount criteria.

Verified Loss: The verified loss must be less than or equal to $240,000.

Payment/Term: The minimum payment is $50.The payment will be based on a defined term of exactly 25 years. Any term which is greater than or less than 25

years will disqualify the application from RAPID Home processing. **Exception:** The term can be less than 25 years only to meet the required $50 minimum payment.

Cash Available: If the payment to amortize the loan exceeds CA, the loan officer must contact the applicant to determine whether repayment of the disaster loan is reasonably assured. LO must enter a written justification in the case file which is supported by the CHRON LOG.

Credit Elsewhere Test: The target payment will be based on 1/3 CA using the standard 40% calculation. The gross annual income entered in DCMS and the CBR debts will carry over into HFAT to calculate cash flow for CET determination.

Level of Approval: All LO levels (LO1, LO2, and LO3) will be permitted to process under the RAPID Home processing guidelines and will require final approval by an SLO or higher.

Restrictions:

Application Stage: RAPID Home processing cannot be used for Reconsiderations, Appeals, and Loan Modifications if the original approval was not based on RAPID, or if approved under RAPID the end result of the modified action does not meet the RAPID guidelines.

CBRA: RAPID Home processing cannot be used if the disaster damaged property is located in a Coastal Barrier Resource Area (CBRA) or if the structure is in a special flood hazard area and is in a sanctioned community.

Other Elements: RAPID Home processing cannot be used if the loan contains refinancing, relocation or mitigation.

Criteria for Business Loans:

The loan officer is responsible for addressing all standard eligibility requirements as normal such as delinquent child support, federal debt, character exceptions, ownership, and qualified business determination.

Maximum Loan Amount: The maximum loan amount is $350,000 (physical and/or economic injury). The Economic Injury (EIDL) amount is equal to 4 times the Monthly Gross Margin

Minimum Credit Score: SBA will identify a credit score which establishes "Strong Credit". At least one applicant or co-applicant must have a credit score which equals or exceeds the score used to identify strong credit in order to qualify for RAPID. An applicant/co-applicant with a 0 or NULL credit score will be eligible for RAPID Business processing provided there is another applicant/co-applicant with a score greater than or equal to the strong credit score level. When processing under business credit score the score must be equal to or greater than the strong credit score level.

Companion Files: An application with an active companion is eligible for RAPID processing, regardless of whether the companion is also eligible for RAPID.

Income: All income must be verified using both the applicant's and the principal(s) IRS transcripts. Income can be included regardless of the source, including any self-employment income from Schedules C, E and F. Applicant income will be documented in the Business CASAD TAB (gross, cogs, depreciation, and total expenses). Individual income (wages, Schedule C, E, or F net income and depreciation) will be documented in the individual CASAD TAB in BFAT. Please refer to paragraph 6.1 B for guidance when using retirement income that is not reflected on the IRS tax transcripts. The resulting CASAD must be $70,000 or more to use RAPID processing.

Debts: The scheduled or unscheduled debt service will not be input into DCMS.

Application Stage: RAPID Home processing can be used on all original processing, as well as an application that was previously withdrawn; summary declined or had a Pre-LV override. In addition it can be used in the processing of a loan modification if the file was approved as RAPID and the result of the financial change loan modification is within the RAPID loan amount criteria.

Verified Loss: The verified loss must be less than or equal to $750,000 with uncompensated loss of less than or equal to $350,000.

Payment/Term: The minimum payment is $50 with a 25 year maturity.

EIDL:	BFAT will allow inputting of Sales and cost of goods sold to determine Gross Profit. EIDL amount will be limited to 4 times monthly Gross Profits/Margins not to exceed $350,000.
Credit Elsewhere Test:	The Credit Elsewhere Test (CET) is based on the applicant and the principals.
Level of Approval:	LO levels of LO2 and LO3 will be permitted to process under the RAPID Business processing guidelines and will require final approval by an SLO2, SLO3 or higher.

Restrictions:

Application Stage:	RAPID Business processing cannot be used for Reconsiderations, Appeals, and Loan Modifications if the original approval was not based on RAPID, or if approved under RAPID the end result of the modified action does not meet the RAPID guidelines.
New Businesses:	Businesses whose income cannot be verified using an IRS Transcript are not eligible for RAPID Business Processing.
CBRA/Sanctioned:	RAPID Business processing cannot be used if the disaster damaged property is located in a Coastal Barrier Resource Area (CBRA) or if the structure is in a special flood hazard area in a sanctioned community.
Other Elements:	RAPID Business cannot be used if the loan contains refinancing, relocation or mitigation.
Affiliates:	Applicants with affiliates (50% or more ownership) are ineligible due to CET and Size Standards (EIDL).
Entity Type:	Non-profits are excluded from Rapid Business processing.

APPENDIX 11

HOW TO MAKE A SIZE DETERMINATION

1. Determine the Applicable Size Standard.

Use the procedures in 13 CFR part121 to determine the applicable size standard in effect as of the date of the disaster. NAICS codes and corresponding size standards can be found at 13 CFR §121.201.

a. Identify affiliates using the definition described in paragraph 2.4 A 5 B (3), 3.32 C 3, and 13 CFR § 121.103.

b. Determine the applicant's and its affiliates' primary industry. To determine the primary NAICS code (i.e., industry), consider the distribution of receipts, employees and costs of doing business among the different industries in which the business operations occurred for the most recently completed fiscal year. You may also consider other factors (e.g., patents, contracts, awards, and assets). See 13 CFR § 121.103

c. If there are receipts from only one industry, determine the appropriate NAICS code from the description of the applicant concern's operations.

d. If there are receipts from more than one industry, determine the NAICS code from the description of the applicant concern's operations for each industry in which it conducts business. Obtain the receipts for the most recently completed fiscal year prior to the onset of the disaster for each industry. The primary NAICS code is generally the industry that generates most of the applicant's receipts.

e. Apply the size standard for the NAICS code of the primary industry of the applicant concern together with its affiliates.

For example: Joe's Fish House, Inc. was damaged by a flood in February 2014. The corporation has a fiscal year ending (FYE) of September 30. The appropriate FTR to use is for the FYE ending 9/30/13. If the applicant entity, Joe's Fish House, Inc., operates both a commercial fishing vessel (NAICS Code 114111) and a wholesale seafood operation (NAICS Code 424460), you must determine the receipts for FYE 9/30/13 for each of these industries, separately. If the fishing vessel generated the most receipts, the size standard applied would be $4,000,000 in average annual receipts (AAR). If the wholesale seafood industry had generated the most receipts, the size standard of 100 employees in average number of employees (ANE) would be applied.

NOTE: The SBA disaster loan application does not require applicants to submit receipts by industry. This information should be obtained by the processing Loan Officer as needed. Some applicants may not keep records with sufficient detail to permit a breakdown of receipts by industry.

2. Determine the applicable size of the applicant and affiliated groups.

a. Apply the Size Standard. You must calculate the average annual receipts (AAR), or the average number of employees (ANE), of the applicant, including its affiliated group as of the date of the disaster. You must make these calculations and comparisons using the procedures detailed in 13 CFR §121.104, §121.106 & §121.201:

(1) If the size standard for the NAICS code of the primary activity is expressed in AAR, you must use the procedures in 13 CFR §121.104;

(2) If the size standard for the NAICS code of the primary activity is expressed in ANE, you must use the procedures in 13 CFR §121.106;

(3) You must use the procedures in 13 CFR §121.201, §121.301(a) & §121.302(c) in comparing the results of your calculations to the applicable size standard for the primary activity of the applicant concern. If the applicant concern, including its affiliated group, is "other than small", you should decline the EIDL application due to size (code 33).

APPENDIX 12

INSTRUCTIONS FOR COMPLETING THE ECONOMIC INJURY DISASTER LOAN (EIDL) WORKSHEET

The Phase II EIDL worksheet contains the following sections which would be completed by the Loan Officer.

A. Section A, Injury Period Analysis. Use to indicate the time period the business is affected by the disaster.

The injury period is the time period during which the business feels the adverse effects of the disaster. You must determine the injury period at the outset because this time frame is a key element for the needs and injury analyses. The injury period does not necessarily begin with the date of the disaster, nor does it necessarily correspond to the incident period stated in the declaration or designation. For Secretary of Agriculture (SecAg) disaster declaration(s) which include the statement "and continuing", the incident ending date shall be the application filing deadline, unless the declaration is amended to include an incident ending date. You must thoroughly understand the applicant's business cycle to accurately determine the recovery period. Full recovery is often contingent upon completion of one or more business cycles.

NOTE: SecAg disaster declarations, the implementation of the filing deadline as the incident period ending date only pertains to the incident period. The amount of Economic Injury Loan eligibility will continue to be determined based on **injury** period losses. For example, USDA (SecAg) issued a declaration on March 1, 2013, for drought with the incident period stated as "March 1, 2011 and continuing", with a filing deadline of November 1, 2013. SBA would subsequently issue a declaration under the same terms to aid eligible businesses. Under this example, SBA eligible businesses could suffer economic injury resulting from reduced income from farmers in crop years 2011, 2012, 2013, and possibly 2014. Such losses are eligible and may be considered under our program provided the business applicant can show the economic injury was a direct result of the declared disaster.

1. Plot dates of significance which impact the duration of the injury period:

   a. The beginning date of the disaster and the date the resulting economic injury began; these may be the same date, or there may be a delayed effect (such as in SecAg designations).

   b. If there is no physical damage to the applicant's business, the onset of the injury may be delayed. This usually occurs when the injury is not the result of sudden physical damage. In these cases, you should first complete the monthly sales analysis in section B.1.a. to identify the onset of the injury.

   c. The onset of the injury can never predate the disaster.

d. The dates of events affecting the duration of the injury period; e.g., the date of completion of repairs if physically damaged; the completion of the business cycle; etc.

e. The end of the injury period (the return to normal operations), actual or projected.

B. Section B, Injury Analysis. There are two components of injury. You use section B to measure the injury to the business.

The injury analysis is divided into two sections: "Injury from Operations" and "Balance Sheet Analysis and Extraordinary Items". Injury from Operations is further divided into two parts: (a) Monthly Sales Analysis; and (b) MCM Analysis. The most common injury is from operations. The monthly sales analysis measures the amount of lost sales. The MCM analysis measures the impact the reduction in sales had on funds available to maintain operations. This injury from operations is one component of injury. The other component of injury, the balance sheet analysis and extraordinary items, identifies additional injury not reflected in the operations. Section B addresses each component separately.

1. Injury from Operations

a. Monthly Sales Analysis (Section B.1.a.).

(1) The injury is generally attributable to reduced revenues. You must complete the monthly sales analysis to evaluate the impact of the disaster on operations. This helps identify the injury period. To measure the amount of lost sales, you determine:

(2) Sales had the disaster not occurred (normal); and

(3) Sales that actually occurred or will occur during the injury period.

2. In section B.1.a., the initial month used in the sales analysis corresponds with the first month of the business' fiscal year. Enter the monthly sales figures for the 3 years preceding the disaster and for the year to date. If 3 years of sales figures are unavailable (due to the age of the business or inadequate financial records), obtain at a minimum the monthly sales figures for the injury period to date and for any corresponding historical periods available. When the availability of monthly sales figures is limited, obtain the best available historical figures (e.g., quarterly, semi-annual, or annual), along with an explanation of normal business cycles from the applicant. Using average monthly figures from quarterly, semi-annual or annual figures could substantially distort business cycles, so you must obtain information about any seasonality of the business.

a. Determining Normal Sales.

(1) Normal sales are those which would have been attained had the disaster not occurred. You must first review historical sales

figures, identify, and apply trends to historical figures. Once you determine normal sales, insert them in the "Normal" columns of section B.1.a. for the months corresponding to the injury period and total the columns.

b. Identifying and Applying Trends

(1) A trend can be upward, downward, fluctuating, stable, or undetermined.

(2) Historical annual figures may suggest a certain trend. However, unless the corresponding injury period is also annual, seasonality or changes in business cycles may result in an annual trend which is different from the trend within the injury period. Therefore, to identify the appropriate trend, you must compare the historical sales only for the months, which correspond to the months of the injury period (i.e., if the injury period is May to July, normal should be based upon the sales trend for May to July from the previous years).

Generally, we use the following to determine trends:

(a) Upward. If the sales trend is upward, project continued growth as normal. For example, if the disaster injury period is January to June, and the historical data for these same months show respective 10 and 14 percent increases in sales during the corresponding periods, project a 12 percent increase in sales (average growth rate for the two previous years) to obtain the estimated normal sales. However, there could be a historical upward trend, but the upward trend itself could be decreasing. In the example above, if the historic upward trend was a 14 percent increase followed by a 10 percent increase, the trend is still upward but at a decreasing rate. In these cases, an average may not be representative. Use the most recent growth rate to project normal.

(b) Downward. If the sales trend is downward, use the most recent year prior to the disaster as normal. This gives the benefit to the applicant as it assumes the business will duplicate the previous year.

(c) Fluctuating. If the sales are fluctuating, you must determine if this is due to the accounting method, a business cycle extending beyond one year, or other economic factors. These factors are most prevalent in businesses engaged in major construction projects, media production, etc. In most of these cases, you base normal sales on the pre-disaster 3-year average. If the basis for forecasting normal sales is anything other than

an average of the three pre-disaster years, you must justify your analysis in the Comments section B.1.a.

(d) Stable. If the sales are stable with little change during the months of the injury period from year to year, use the sales for the months of the injury period from the last year prior to the disaster as normal.

(e) Undetermined. In some cases, the sales trend may be undetermined (e.g., when a business is new and has not had adequate time to establish historical patterns). You may need to rely upon financial forecasts to establish normal sales. You must determine if the forecast is reasonable and attainable (without the disaster) before using it.

NOTE: The above principles are guidelines, and it may be appropriate to deviate from them if circumstances warrant. You must justify any deviation in Comments section B.1.a.

(1) Exclusions Due to Abnormal Occurrences.
Possibly, an abnormal occurrence in one of the prior periods may skew the results of your trend analysis. For example, a previous disaster or the serious illness of the owner could result in abnormally low sales during one of the periods. Similarly, the influx of a major construction project into an area could create a temporary business boom, which may not be sustained. In these examples, the sales indicated by the other years may be more representative of normal. If an abnormal occurrence exists, the trend analysis may exclude that period. The exclusion of a prior period does not imply all three periods should be ignored, or that you should search further back in history for a positive trend. Recent (within the past few years) changes in the size or scope of operations can alter what is normal.

For example, if a dry cleaner operated from only one location, but two years ago expanded by adding a second location, the historical sales and trends from the one-location operation would not be representative for comparison purposes when establishing normal. The same theory applies to businesses which have significantly changed their product mix or services in recent years. Your ability to recognize changes is critical to accurate and consistent analysis. After you identify the trend and establish normal, complete the appropriate lines in section B.1.a.

(2) Determining and Estimating Injury Period Sales.

Determine the sales during the entire injury period (the actual to-date sales plus the estimated sales during the remainder of the injury period). You only use estimated sales when the injury period is not over at the time of processing. If the injury period is ongoing, list the actual monthly sales to the most current date possible in the "Injury Period" columns. Review these figures and information available regarding the

effects of the disaster on operations, and estimate the expected sales figures for the remainder of the injury period.

(3) Injury from Operations - Modified Contribution Margin (MCM) Analysis (Section B.1.b.).

You use the MCM analysis to calculate the funds a business has or will generate to pay fixed expenses, service debt, compensate the owners (if applicable), and provide for its working capital needs.

In section B.1.b., you use the normal sales from B.1.a. to calculate an approximation of the amount of funds normally available to apply towards fixed costs, etc. You use the injury period sales to calculate a reasonable estimate of the amount that was or will be generated to apply towards needs. The difference between these two amounts is the lost MCM. It is the shortfall of funds from what the business would have been able to generate and what was actually generated.

(1) Definition of Gross Margin (GM).

GM is sales less cost of goods sold (COGS). You do not adjust COGS unless there is a change in the components of COGS from year to year.

(2) Definition of Modified Contribution Margin (MCM).

MCM is sales, less COGS, less expenses which are obviously variable. "Obviously variable" expenses are totally dependent on sales, (e.g., commission expense; delivery expense; etc.) and not included in COGS. You must review the operating statements and identify as variable only those expenses that are dependent on sales. If there are no variable expenses, the MCM is the same as GM.

(3) Calculating Normal MCM or GM Percent.

You calculate the MCM or GM for each of the previous years (or other applicable period) in section B.1.b. You then calculate the MCM/GM percent for each of those years and record the result on the appropriate line. You determine the Normal MCM/GM percent by applying the same trend analysis principles used to calculate Normal Sales. Generally, you determine Normal MCM/GM percent on an annual basis because monthly income statements are not available. You must explain any deviation from the trend analysis guidelines if Normal MCM/GM percent does not follow directly from the trend analysis.

(4) Calculating the Injury Period MCM or GM Percent.
The injury period MCM/GM percent is generally the same as normal because the financial information is not available for a separate calculation.

However, sometimes the actual MCM/GM percent for the injury period may differ from the Normal MCM/GM percent. For example, the

applicant was forced to liquidate merchandise at a substantial reduction. You must justify any deviation if the MCM/GM percent for the injury period differs from what would be indicated by normal.

(5) Calculating Lost MCM.

You calculate Lost MCM as follows:

(a) Multiply the Normal Sales by the Normal MCM percent;

(b) Multiply the actual/forecasted injury period sales by the actual/forecasted injury period MCM percent; and

(c) Subtract the result of the first calculation from the result of the second calculation, the difference is the lost MCM.

c. Balance Sheet Analysis and Extraordinary Items (Section B.2.).

Economic injury is not always limited to lost sales or reduced margins. It may include extraordinary items, which generally result from the inability to convert current assets to cash, or the diversion of cash to meet additional expenses caused directly by the disaster. Use of these items should be rare and justified and must not duplicate the injury from lost MCM. You may need to make comparative balance sheet and other analyses to identify this additional injury, which generally occurs in one or more of the following categories:

(1) Frozen Inventory.

A business may have additional injury if it is unable to sell inventory due to the effects of a disaster. This may include: additional interest expense to carry the inventory; storage fees to hold the inventory; restocking and freight charges to return it; future losses in GM to liquidate it; etc. This is common with seasonal merchandise such as fertilizer, ski equipment, boats, farm equipment, holiday goods, etc. In other cases, the general income reduction in a disaster area will cause certain inventory to move more slowly.

Some businesses, such as furniture and appliance dealers, automobile and farm equipment dealers, etc., may have floor planned inventory. You must understand the business's inventory financing arrangements. Floor plan financing is provided by the manufacturer or a commercial finance company, and terms may vary greatly. For example, there may be an interest free period, interest only payments, or required periodic principal reductions (curtailments) due. Frozen inventory financed by floor plans can result in a demand for payment of part or the entire floor plan note prior to the sale of the inventory (creating a situation similar to a lender accelerating debt).

You calculate frozen inventory by reviewing the balance sheets and calculating the relevant ratios and comparing the results from the injury period to the prior period(s). You must identify any multi-year trends or fluctuating inventory turnover ratios that could indicate a greater or lesser injury.

(2) Frozen Accounts Receivable (A/R).
Frozen A/R creates injury in much the same way as does frozen inventory. When an applicant's receipt of payments on credit sales becomes slow, the cash available to pay fixed and other expenses is reduced. Since accrual income statements reflect only sales, and not the receipt of funds, the injury from frozen receivables will not be reflected in the lost MCM/GM analysis. You can measure frozen A/R by comparing:

(a) The pre-disaster and post-disaster A/R aging; and

(b) The pre-disaster and post-disaster receivables' turnover ratios (or day's receivable).

You calculate frozen receivables by reviewing the balance sheets and calculating the relevant ratios and comparing the results from the injury period to the prior period(s). You must identify any multi-year trends or continuing collection problems that could indicate a greater or lesser injury.

The amount of injury attributable to frozen accounts receivable cannot exceed the actual amount of frozen receivables. When the receivables are uncollectible, they are considered an extraordinary item and will generally result in a 1:1 EI.

Frozen A/R creates additional injury and the need is reflected in the business's inability to pay creditors, fixed debt, or operating expenses.

(3) Eligibility for Accelerated Debt.

The need to meet accelerated debt is normally covered in section D of the needs analysis as an extraordinary item. This injury is not measured by the lost MCM. The fact that the debt has been paid does not reduce injury and may not reduce needs. Accelerated debt arises from obligations which are frequently (quarterly, semi-annually, or annually) renewed or rolled-over, such as demand notes. The amount accelerated is the need. Eligibility is limited to the average amount the debt was previously reduced during the period corresponding with the injury period. This represents the true current portion the applicant could have paid had the disaster not occurred.

The disaster may cause the lender to require an accelerated payment in excess of the normal amount. This is because the economic injury resulting from the declared disaster has so weakened the condition of the borrower that the lender insists on a payout or a major reduction in the loan balance. Generally, amounts demanded by the lender in excess of the average previous reduction are not eligible. However, in these cases, the applicant incurred a need, which would not have otherwise occurred. Demands for accelerated debt payments may create additional eligibility, subject to the following restrictions.

(a) The lender must offer reasonable justification that the abnormal acceleration is the direct result of the disaster. Causes for acceleration such as FDIC audits or poor post-disaster economic conditions alone are not sufficient justification

(b) The amount of eligibility is limited to two times the average previous reduction of the debt. The ACDAP must approve this recommendation.

(c) The eligibility may be raised to three times the average previous reduction of debt; however, the CD/PDC or Deputy must approve this recommendation.

(d) When EIDL proceeds are used to reduce accelerated debt, it may be necessary to have the remaining debt restructured to avoid the lender demanding payment in excess of what the borrower can meet.

(e) Because the EIDL substantially benefits the lender, it should be willing to restructure the borrower's debt. You must condition the LAA accordingly. If the lender is unwilling to cooperate, it may indicate pre-disaster problems between the applicant and lender, and could result in an inability of the applicant to remain viable.

(4) Extraordinary Items.
Extraordinary items are expenses outside of normal operations and directly caused by the disaster. Examples of extraordinary items include, but are not limited to the following:

(a) Temporary rent or storage fees, additional advertising costs, etc.

(b) Additional salary expense resulting from the disaster event (i.e. For MREIDL, hiring and training of an additional employee to replace the essential employee).

(c) You cover extraordinary items that represent current needs in the needs analysis and these require no further support. However, an extraordinary item paid prior to filing the application will not appear in section D. column (f). In addition to the obligations that cannot be met because sales and margins were lower than normal, it is possible additional obligations cannot be met because the limited funds available were used to meet an extraordinary item. Again, instead of the needs being divided between columns (e) and (f) in section D, they all appear in column (e).

C. Section C, Needs Analysis. Use to identify the necessary cash outlays, which the business will be unable to fund due to the disaster.

1. The Basis for a Phase II EIDL is Needs. Needs are the normal working capital requirements for the injury period, less costs not incurred because of the disaster, plus disaster-related costs. Working capital generated from operations during the injury period and available excess business and personal resources reduce the amount of needs.

   Many needs are apparent after your initial review of the financial information in the case file. The applicant may advise us of problems that have been or are being experienced. When you complete the spreadsheets, you can identify needs that are not immediately obvious. An analysis of the spreadsheet and its ratios may help you verify the applicant's requests.

   In some cases, there may be no needs, and the business may already have returned to a normal level of operations. If there are no needs, there is no basis for an EIDL, and generally no further analysis is necessary. You divide needs into three categories, as follows.

   a. To-date needs are normal obligations already incurred (usually reflected as liabilities on the most recent available post-disaster balance sheet), which the business is presently unable to pay as a result of the disaster. They include funds necessary to bring delinquencies current and to restore working capital to normal levels. To-date needs are divided into two categories so you can identify problems:

      (1) Needs from transactions which predate the disaster; and

      (2) Needs from transactions which post-date the disaster but predate processing.

      NOTE: Post-disaster needs resulting from predisaster transactions are not necessarily excluded from consideration. For example, some businesses, particularly seasonal ones, may run behind on payments during their slow season and catch up during the busier season.

   b. Future needs are normal obligations, which the business would not be able to meet throughout the remainder of the injury period. They will sometimes be a continuation of to-date needs, such as:

      (1) Fixed debt payments necessary to maintain the current status of long term debts; or

      (2) Payments of ongoing fixed expenses such as rent; utilities; insurance premiums; or the owner's draw/salary when the draw is both normal and essential. Future needs do not exist if the injury period is over and the balance sheet date corresponds to, or is dated later than, the end of the injury period. In this case, all disaster-related economic injury due to an inability to pay normal and necessary operating expenses should be reflected on the balance sheet of the applicant.

   c. Extraordinary items are needs outside of normal operations and directly caused by the disaster. You list these needs in column (f) to separate them from the needs that must be supported by the injury analysis. Extraordinary items can include:

      (1) Temporary rent or storage fees, additional advertising costs, etc.;

      (2) Accelerated debt due to the disaster (see section B.2.);

(3) Inventory replacement may be an extraordinary item. For example, in the spring, a clothing store located in a disaster area is left with an inventory of winter clothing and has no funds to order summer stock. The cost of ordering summer inventory represents an additional need. If you recommend inventory replacement as EI, and a physical loan was also approved for inventory, you must be sure that you do not duplicate the physical loan; and

(4) Extraordinary items already paid will not show up in column (f) as needs because the applicant may have diverted funds normally used for customary expenses to pay them. This increases the amount of to-date needs shown as liabilities on the balance sheet and in columns (c) and (e). Section B.2 discusses this possibility.

d. Resources and Recoveries. EIDLs may only fund uncompensated losses. Once you identify all needs, you must determine if any recoveries are available to alleviate these needs. The most common recoveries are business interruption insurance and state or local economic development grants.

If the applicant already received and used recoveries (or if they show on the balance sheet as cash), the needs you identify represent the remaining needs after injection of the recoveries. However, if not applied, deduct them here. If you anticipate a future recovery but details are uncertain, proceed as if there is no recovery and condition the LAA accordingly.

SBA regulations require EIDL applicants to use personal and business assets to alleviate the injury to the greatest extent feasible, without incurring hardship. "To the greatest extent feasible" means to the extent these resources are not necessary for the firm's survival or for the principal's livelihood. To identify excess resources and assets, review the applicant's financial statements to determine if part or all of the needs might be alleviated through:

(1) Sale or utilization of assets not used in normal business operations; or

(2) Sale or utilization of liquid assets which would not result in considerable loss to the business, or which are not required for reserves, immediate expansion, etc.; or

(3) Financial resources of the parent firm controlling the applicant, affiliated firms, the proprietor, each general partner, each limited partner or affiliated group of limited partners who own 20 percent or more of the partnership, and each stockholder or affiliated group of stockholders with 20 percent or more ownership, as appropriate; or

(4) Private credit sources.

D. Section D, Remaining Essential Needs Summary. Use to summarize the necessary cash outlays and identify any extraordinary items, which the business will be unable to fund due to the disaster.

Further economic injury analysis is generally required prior to completion of this section. Additional needs may be discovered in later analysis in section C. Fully explain any entries in section D column (f).

E. Section E, Conclusions of EI Analysis. Use to summarize the analysis and set the loan amount.

1. The final stage is the reconciliation of needs and injury, completing the entire section E by comparing remaining essential needs from section D [excepting extraordinary needs in column (f)] with the total injury measured in section B.

a. Limitations on the Possible Loan Amount.

Because an EIDL cannot exceed the injury incurred, the possible loan amount is the lesser of the needs (from line D.12. (e)), or the Total EI (lost MCM from section B.1.b. plus additional EI from section B.2.), plus remaining extraordinary needs from D.12. (f).

b. Calculating the Possible Loan Amount.

(1) Transfer the lost MCM amount from section B.1.b. to line E.1.

(2) Transfer any additional EI amount from section B.2. to line E.2.a.

(3) Transfer the total of lines E.1. and E.2. less any insurance recovery from E.2.b. to line E.3. (Total EI).

(4) Transfer any remaining essential needs from line D.12. (e) to line E.4.

(5) Transfer any remaining essential needs from line D.12. (f) to line E.6.

NOTE: The entry on line E.6. is not compared to injury. If the amount on line D.12. (f) includes accelerated debt, transfer only the eligible amount to E.6.

(6) Compare the remaining essential needs on line E.4. to the total EI on line E.3. If E.3. equals or exceeds E.4., the possible loan amount will be total needs (E4. plus E.6.).

(7) If E.4. exceeds the total EI on line E.3., enter the shortfall on line E.5., proceed as follows.

(a) Review the components of the analysis for any errors and/or oversights.

(b) Review for the possibility of predisaster problems and consider if any needs can be addressed through workouts with existing lenders.

(c) If the review increases total EI, proceed. The possible loan amount will be the total remaining needs (E.4. plus E.6.). If the excess needs can be addressed through other means (e.g., workouts, etc.), the possible loan amount will be total EI plus remaining extraordinary needs (E.3. plus E.6.).

(d) You must explain any shortfalls (from line E.5., from ineligible portions of accelerated debt, or from any other ineligible needs). If the shortfall cannot be met through other means, decline for lack of repayment ability and inadequate working capital after the loan.

2. CET.

Once you determine the total EI, complete the CET. If the CET result is no credit available elsewhere, proceed. If credit is available elsewhere, decline or justify a hardship waiver, if appropriate.

NOTE: If you determine the applicant, principals (20% or more owners), or affiliates (s) (50% or more ownership) have personal resources available to offset the economic injury, deduct the identified amount from total EI to determine the loan amount.

3. Proposed Eligible Use of Proceeds. The use of proceeds should generally be limited to working capital, notes payable, and accounts payable.

4. Disbursement Instructions.
Any special or unusual conditions for disbursement must be explained in the Comments section. You must support any disbursement restrictions by including special conditions in the LAA advising the borrower of the requirements for obtaining disbursement. You must provide any instructions relevant to the timing of disbursement for the Accounts Department.

APPENDIX 13

RIGHT TO FINANCIAL PRIVACY

A. CREDIT INQUIRY LETTER

We must add the following paragraph to any credit inquiry letter whenever we provide it to a financial institution:

"This is to certify that the Small Business Administration has complied with the applicable provisions of the Right to Financial Privacy Act of 1978, Title XI of Public Law 95-360. Pursuant to Section 1113(h) (2) of that Act, no further certification shall be required for subsequent access by the Small Business Administration to financial records of the customer."

B. RIGHT TO FINANCIAL PRIVACY ACT OF 1978

1. General.
Congress passed this Act (effective date May 10, 1979) to protect individuals from any unwarranted intrusions into their financial affairs by Government authorities. We must notify certain applicants and their principals that we have the right to access financial records and information necessary to process, service or foreclose a loan or loan guarantee. SBA disaster loan applications are designed to provide appropriate notice to the applicant and principals as required by the Act. Observance to this paragraph is necessary to protect financial institutions from liability when they furnish financial information.

Do not confuse this Act with the Privacy Act of 1974. They are two separate and distinct pieces of legislation.

2. Definitions.
Terms used in the Act have the following special meanings.

a. Customer/Individual means a natural person, a proprietorship, a partnership of five or fewer partners, or a corporate officer, director, or shareholder in his/her individual capacity.

b. Financial institutions mean participating banks, banks of account, creditor banks, savings and loan associations, credit unions, credit card issuers, and production credit associations (PCAs). We do not consider credit bureaus, insurance companies, suppliers, or retailers as sources of financial records or financial institutions.

c. Financial records mean the actual records or copies of the records in a financial institution; a compilation, summary, or report derived from records; the actual records submitted for review or a written or verbal opinion resulting from the records.

d. Notice means the statement required by the Act given to all appropriate individuals associated with all applications.

e. Certify or Certification means the statement SBA must make in requesting information from a financial institution to the effect that the request complies with this Act. A single certification will be sufficient for the term of the loan or loan guarantee with regard to a specific customer.

3. Exclusions.
The Act specifically accepts or excludes (or is silent on) certain exchanges of information from the provisions of this legislation.

a. Financial records of corporations are not included. However, financial records of corporate officers, shareholders, and directors as individuals are included.

b. Financial records of partnerships having six or more partners are excluded (but not the information concerning the partners as individuals).

c. Personal financial information supplied by the individuals directly to SBA is not covered. Requests for financial institutions to verify any such information are covered.

d. Information received from nonfinancial institutions is excluded.

e. Exchange of information between financial institutions is not covered.

4. Implementation.
A copy of "Statements Required by Laws" is attached (in tear-off fashion) to every application issued. The applicant must read and retain this. Do not accept an application for processing if the tear-off is still attached. If this occurs, detach and return it to the applicant. In addition to the Right to Financial Privacy Act of 1978, this document provides required notice of other legislation.

Telephone verification of financial information on individuals involved in any way with a loan application is considered an exchange of information and must be preceded by written certification.

The law regarding the exchange of credit information between SBA and IRS or any other Federal authority is complex. Therefore, you must refer all exchanges to ACDA.

APPENDIX 14

IRS FORM 8821/4506-T TRANSCRIPTS VERIFICATION PROCESS

SBA requires all applicants to submit an executed IRS Form 8821/4506-T "Tax Information Authorization" with the disaster loan application. IRS Form 8821/4506-T allows SBA to obtain transcripts of Federal Income Tax Returns, as well as to confirm the status of delinquent federal taxes, verify payment and existence of workout agreements, verify tax liens, and obtain other specific tax-related information.

A. Obtaining IRS Transcripts You must obtain transcripts from the following:

1. Home Loan Applicants

1. Each disaster applicant (individuals filing joint tax returns may use a single 8821/4506-T)

2. For Business Loan Applicants

   a. Each disaster applicant (individuals filing joint tax returns may use a single 8821/4506-T)

   b. Each affiliate business entity in which a principal owns 50% or more or other relationships defined in paragraph 3.32 C (3) and 2.4 A 5 b (3)),

   c. Each individual or entity holding a 20% or greater interest in the disaster loan applicant,

   d. Each general partner,

   e. Each manager of a LLC, managing member,

   f. Others Individuals or business concerns who may have a controlling interest, in the disaster loan applicant, which includes but is not limited to family members even if one or all of them owns less than 20 percent of the applicant business. (Refer to paragraph 2.4 A 5 b).

You should request 2 years of transcripts for home loan applicants and business principals and 3 years of transcripts for corporations, partnerships, limited liability entities, non-profits, and sole proprietors.

You may obtain transcripts for additional years as needed.

NOTE: In areas that do not use FTRs, such as commonwealths, territories, or U.S. possessions, we require comparable documentation. (See state specific guidance.)

B. Reviewing the IRS Form 8821/4506-T

Upon receipt of the executed 8821/4506-T, you must review the form for completeness and make it a part of the permanent case file using the following procedures:

1. Verify the 8821/4506-T has been signed and dated within the last 120 days. If not, you must request a new signed, dated 8821/4506-T on a 7 day letter.

2. Ensure the names and social security numbers and/or employer identification numbers on the 8821/4506-T are legible and the appropriate tax form and tax years of the transcripts requested are circled.

3. If a business fiscal year ends in any other month besides December**, THE 8821/4506-T SHOULD INDICATE THE FISCAL YEAR END.** *For example*: "FYE 4/30". Otherwise, the transcript request will reflect no record of filing.

4. If the 8821/4506-T form is incomplete, you cannot alter the 8821/4506-T, even with the applicant's permission. You must obtain a current, complete 8821/4506-T by requesting it on a 7-day letter.

C. Tax Filing Requirements

For the purposes of determining tax filing compliance *only*, SBA uses IRS filing requirements to determine whether an individual or business concern is required to file a FTR.

1. Individuals (IRS Form 1040 tax filers): IRS annually establishes minimum income levels based on age, marital status, and filing status. IRS filing requirements for individuals are updated yearly by the Office of Disaster Assistance.

   IRS filing requirements are based on gross income, which IRS defines as "all income you receive in the form of money, goods, property, and services that is not exempt from tax." Social security income and tax-exempt pension income are excluded. Most forms of taxable income are included for this purpose. For rental and self-employment income IRS provides the following guidelines:

   a. Rental Income: Gross rents should be included in the calculation of gross income. Rental income is not considered self-employment income for this purpose. For further information on rental income, see IRS Publication 527, "Residential Rental Property."

   b. Self-Employment Income: Net earnings from a sole proprietor, independent contractor, or partner in an informal partnership should be included in the calculation of gross income. Self-employed individuals must file if their *net earnings* from self-employment are (see IRS guidelines) or more, if their *gross income* meets the minimum filing requirement, or if they meet any other filing requirement in the IRS Form 1040 instructions. For further information, see IRS Publication 334, "Tax Guide for Small Business."

   If an individual does not meet the minimum filing requirement for their age and filing status, they are not required to file, even if they have some rental income, or self-employment income less than (see IRS guidelines).

2. Corporations: All domestic corporations (including those in bankruptcy) must file whether or not they have taxable income (unless exempt under IRS Code §501). A

corporation must file a FTR unless it has been dissolved. For further information on corporations, see IRS Publication 542, "Corporations."

3. Partnerships: A partnership is an unincorporated organization with two or more parties who carry on a trade, business, financial operation, or venture and divide its profits. A written partnership agreement may exist but is not required. A partnership must file a tax return unless it neither receives gross income nor pays or incurs any amount treated as a deduction or credit for Federal tax purposes. Generally, partnerships are required to file IRS Form 1065, although in some instances the partners may report the partnership income on their personal FTRs.

4. Limited Liability Entities (LLE): If a business concern is formed as a limited liability entity under state law, it may be treated as a sole proprietorship, a partnership or a corporation. An LLE can file a 1040 (Schedule C or E), 1065 (partnership) or 1120 (corporation). Tax filing requirements are determined by the type of entity. For example, if the LLE is organized as a corporation, it would generally file IRS Form 1120 and is governed by the 1120 filing requirements.

5. Non-profits: A non-profit organization which is tax-exempt under IRS Code § 501 is generally required to file IRS Form 990, unless its gross annual receipts are less than (see IRS guidelines)**.** In addition, certain churches and religious organizations, as well as some other organizations, are not required to file. For a current list of organizations exempt from filing, as well as additional filing requirements and other information on non-profits, refer to IRS Publication 557, "Tax Exempt Status for Your Organization."

6. U.S. Territory Residents: U.S. Territory Residents may not be required to file FTRs. Each Center should refer to IRS Publication 570, "Tax Guide for Individuals with Income from U.S. Possessions" to determine if a disaster loan applicant is required to file with the IRS. If IRS filing is not required, establish proof that comparable documents, such as territorial tax returns, have been filed.

D. Determining Filing Compliance: If the IRS indicates that no record of filing **WAS FOUND FOR THE MOST RECENT TAX YEAR**, you must determine whether the taxpayer was exempt from filing and, if so, the basis for the exemption and document the file. If the taxpayer was exempt, obtain alternate documentation of income in accordance with this SOP. If the taxpayer was required to file but has not done so, and no current extension is in place, withdraw the application using Code 59.

In certain cases, a "No Record Found" response may be justified even if the applicant/concern is required to file. These include:

1. For the current tax period: Although rare, this could occur if a business operates on other than a calendar year. Obtain current financial information as available.

2. For the previous tax period, for which the filing period is still open (i.e., prior to April 15), or has closed and the IRS indicates that the returns may not yet be reflected in the IRS database: Obtain current financial information (for wage earners: W-2, pay stub, employer confirmation. For businesses: year end and current (90 days) financial statements). If the filing deadline has passed and no return has been filed, you must determine whether the taxpayer has a current valid extension.

a. For the six month extension (for example, April 16 to October 15 for 1040 returns due April 15) the IRS typically does not acknowledge the extension request. You should generally accept the taxpayer's verbal statement that the automatic extension has been requested and Chron the conversation.

b. Check the IRS website for disaster-related extensions.

c. Members of the armed forces serving in a combat zone or qualified hazardous duty area may be eligible for certain additional extensions. Refer to IRS Publication 3: Armed Forces Tax Guide for specific information.

E. OIG Referral: The following cases may be referred to the Office of the Inspector General (OIG) for possible action when:

1. There is a material discrepancy, which the applicant cannot justify, between the IRS transcript and the applicant-provided copies of the returns;

2. The applicant/representative clearly indicates that income was purposely understated or overstated; or

3. SBA believes there may be provable fraud.

NOTE: In the case of an OIG referral, home loan applicants will not be referred to the Individuals and Households Program (IHP). For additional information about OIG referrals, see paragraph 1.9.

F. Processing: Upon receipt of the requested tax transcripts, process the case file using normal procedures, including but not limited to, a review of the transcript for other processing issues, such as delinquent taxes, federal offsets, non-federal offsets, etc. When appropriate, an inquiry should be sent to the IRS.

If the applicant provides copies of the FTRs, compare the IRS transcripts to the applicant copies.

1. If there are no material differences, you may use the information from either source to complete processing.

2. If material differences exist, such as a significant difference in the amount of income reported, processing should be completed to the extent possible, and the case file should be declined using decline code 46D (Policy Reasons) as well as for any other appropriate reasons. The custom letter should state that:

"There are significant discrepancies between the information in your case file, including any tax information you provided, in comparison with that supplied by the Internal Revenue Service, for the tax year in question."

G. Reacceptance: If an application has previously been withdrawn, using code 59, we will consider reaccepting the application if:

1. The applicant provides the information to establish that they were exempt from filing; or

2. The applicant provides a current 8821/4506-T *and* all necessary transcripts are obtained from the IRS; or

3. The applicant provides proof of filing, such as a copy of the FTR stamped and dated "Received by the IRS."

H. Reconsideration:

1. Summary Declines, Auto-Declines, and Pre-LV Review Declines: If an applicant requests reconsideration of a Screening Decline, Auto-Decline, or Pre-LV Review Decline, the 8821/4506-T should be processed. If you determine that the applicant is not in tax compliance, withdraw the case file using code 59. As a result of the withdrawal, FEMA will be notified of the action, and may seek reimbursement of IHP funds previously awarded.

2. Processing Declines. When previously declined using code 46 for material differences between the IRS Transcripts and the applicant's returns, the application may be reconsidered provided the applicant supplies a satisfactory explanation of the discrepancy.

APPENDIX 15

AUTO DECLINE AND PRE-LV REVIEW PROCESS

GENERAL

Home and business/EIDL applications meeting certain criteria go through the Auto-Decline and/or the Pre-LV review process after DCMS application entry. SLO concurrence is not required on Auto-Declines. Neither process applies to applications from SBA employees.

For home applications, these processes include utilization of the minimum income test, preliminary fixed debt method, and credit bureau report. For business applications, only the credit bureau report is addressed. Both home and business/EIDL applications are also subject to a preliminary eligibility review under the Pre-LV Review process.

A. The Auto Decline Process

Home Loan Applicants are auto declined for credit reasons, if their credit score is deemed unacceptable. Repayment ability is also reviewed if there is an auto decline for credit. Lack of repayment ability may be an additional reason for decline. A letter is auto-generated and sent to the applicant.

1. Business Loan Applicants are used for sole proprietorships and business entities owned 100% by a single owner, and are auto declined for credit, if the credit score is deemed unacceptable. (Repayment ability is not considered.) The applicant is contacted by phone to explain the decline; and a letter is auto-generated and sent to the applicant.

B. The Pre-LV Process:

1. The Pre-LV process for unsatisfactory credit is utilized when credit scores are deemed unsatisfactory and applies to:

   a. Home loan applicants,

   b. Sole proprietors,

   c. Business entities owned 100% by a single owner,

2. The Pre- LV process for repayment only applies to home loans and uses a preliminary fixed debt method and minimum income guidelines; however, it does not apply when the Home loan applicant:

   a. Is applying for an extended family residence,
   b. Is self-employed,

   c. Has any farming or rental income, or,

   d. Has ownership in a business

3. The Pre-LV process includes a review of the primary residence eligibility when the primary residence box is checked “no” on the application or is not checked.

4. The Pre-LV process includes a review when the damaged property is not in a declared county.

5. The Pre-LV process includes a review if any applicant is less than 18 years old

If the SLO concurs with the Pre-LV recommendation, the applicant is contacted by phone to explain the decline; and a letter is sent to the applicant. If the SLO does not concur with the Pre-LV decline recommendation, case files with physical damages are forwarded for verification. Stand Alone EIDLs and MREIDLs are forwarded directly to Loan Processing.

APPENDIX 16

CREDIT ELSEWHERE GUIDELINES FOR DISASTER HOMES AND BUSINESS LOANS

HOMES

The Small Business Act requires us to determine if credit is available elsewhere before we assign an interest rate. If we determine the requested financial assistance is available at reasonable rates and terms from nongovernment sources, the market (higher) interest rate applies. The Credit Elsewhere Test (CET) measures the applicant's ability to address the disaster loss from available resources or to obtain credit from non-Federal sources at reasonable rates and terms. CET guidelines consist of three criteria: Credit Score Test, Cash Flow Test, and Asset Test. Credit Available Elsewhere is determined when the application meets any two of the three criteria.

A. Credit Score Test. Established lending industry standards show a credit score of 700 or higher enables applicants to borrow money at reasonable rates and terms. As such, an application meets the Credit Score Test criteria when the credit score of the primary wage earner is equal to or greater than 700.

B. Cash Flow Test. The Cash Flow Test measures whether the applicant appears to have the sufficient cash flow required to support a loan payment that is calculated based on the market interest rate. The Cash Flow Test is comprised of two calculations: Target payment and benchmark payment (total payment at benchmark rate). SBA utilizes benchmark rates, which represent prevailing rates in the commercial market, to determine the hypothetical payment required to service a private sector loan to repair damages.

1. Target payment equals the monthly cash available to service additional debt divided by three (1/3 CA).

2. Benchmark payment represents the monthly loan payment amount which is calculated using the following:

   a. Loan Amount = Total Uncompensated Loss

   b. Loan Term = 15 years (without deferments)

   c. Interest Rate = Market rate in effect for that application's disaster

The applicant meets the Cash Flow Test criteria when their calculated target payment is equal to or greater than the calculated benchmark payment.

C. Asset Test. The Asset Test uses an Asset Ratio to measure the applicant's ability to utilize Adjusted Net Worth (ANW) to repair or replace the disaster damage property. The application meets the criteria for the Asset Test when the Asset Ratio is greater than 4:1.

1. Asset Ratio is ANW divided by Uncompensated Loss.

2. ANW is Total Pre-Disaster Fair Market Value of Assets less Total Liabilities less $100,000.

The Loan Officer must review the underlying financial information to assure that the values of assets and liabilities used in the Asset Test are accurate, consistent with the financial information in the application, and not artificially inflated.

When an applicant meets the criteria for Credit Available Elsewhere, the Loan Officer must determine whether the assignment of the market rate will result in a repayment amount that will cause the applicant undue financial hardship. When appropriate, a hardship waiver may be granted. In considering a hardship waiver, the Loan Officer should consider the totality of circumstances affecting the overall financial situation of the applicant. A hardship waiver must be justified in the case file and approved by the Supervisory Loan Officer.

Situations in which a hardship waiver may be appropriate include, but are not limited to:
The pre-disaster value of uninsured damaged property is significantly reduced as a result of substantial disaster damage.

NOTE: ACDAP approval is required for any loan modification action that changes the interest rate from below market rate to market rate.

BUSINESSES

The Small Business Act requires us to determine if credit is available elsewhere before we specify an interest rate for a physical disaster business loan. The business CET measures the applicant's ability to address disaster losses using available resources or access to nonfederal lending sources at reasonable rates and terms. CET guidelines consist of two criteria: Cash Flow Test and Asset Test. Credit Available Elsewhere is determined when the application meets both criteria.

A. Cash Flow Test. The Cash Flow Test measures whether the applicant appears to have the sufficient cash flow required to support a loan payment that is calculated based on the market interest rate. The Cash Flow Test is comprised of two calculations: Target payment and benchmark payment (total payment at benchmark rate). SBA utilizes benchmark rates, which represent prevailing rates in the commercial market, to determine the hypothetical payment required to service a private sector loan to repair damages.

1. Target payment equals the monthly cash available to service additional debt divided by three (1/3 CA).

2. Benchmark Payment represents the monthly loan payment amount which is calculated using the following:

   a. Loan Amount = Total Uncompensated Loss

   b. Loan Term = 15 years (without deferments)

   c. Interest Rate = Market rate in effect for that application’s disaster

The applicant meets the Cash Flow Test criteria when the calculated target payment is equal to or greater than the calculated benchmark payment.

B. Asset Test. The Asset Test uses an Asset Ratio to measure the applicant's ability to utilize Adjusted Net Worth (ANW) to repair or replace the disaster damage property. The applicant meets the criteria for the Asset Test when the Asset Ratio is greater than 4:1.

1. Asset Ratio is ANW divided by Uncompensated Loss
2. ANW is Total Pre-Disaster Fair Market Value of Assets less Total Liabilities less $100,000

The Loan Officer must review the underlying financial information to assure that the values of assets and liabilities used in the Asset Test are accurate, consistent with the financial information in the application, and not artificially inflated. Financial information for the applicant, owners/principals, and affiliates/subsidiaries must be reviewed.

When an applicant is determined to have Credit Available Elsewhere a maximum 7-year term applies. Additionally, EIDL applicants determined to have Credit Available Elsewhere are ineligible for disaster assistance. The credit elsewhere determination also applies to non-profit organizations. However, non-profit organizations determined to have Credit Available Elsewhere are not subject to the maximum 7-year term.

We must consider the financial position of the applicant, its owners or principals, and its affiliates. Principal and affiliate information is incorporated into the ratio analysis based on the percentage of ownership or affiliation. Principals with less than 20% ownership are excluded. Affiliates with less than 50% affiliation are excluded. Subsidiaries of the applicant are included based on the percent of ownership the applicant has in the subsidiary. The $100,000 exclusion is applied after all principals, affiliates, and subsidiaries have been included in the applicant's net worth.

NOTE: If the result of the calculation for any entity is negative, it will be included in the net worth calculation as '0'.

When an applicant meets the criteria for Credit Available Elsewhere, the Loan Officer must determine whether the assignment of the market rate will result in a repayment amount that will cause the applicant undue financial hardship. When appropriate, a hardship waiver may be granted. In considering a hardship waiver, the Loan Officer should consider the totality of circumstances affecting the overall financial situation of the applicant, including principals/owners, affiliates, and subsidiaries. A hardship waiver must be justified in the case file and approved by the Supervisory Loan Officer.

C. Hardship Waivers. Situations in which a hardship waiver may be appropriate include, but are not limited to:

1. The pre-disaster value of uninsured damaged property is significantly reduced as a result of substantial disaster damage.

2. As a result of disaster-related losses, the business is expected to be non-operational for 12 months or more.

3. For business loans, Cash Available to Service Additional Debt (CASAD) is insufficient to amortize an SBA loan at market rate within the statutory 7-year loan term, and the Adjusted Net Worth ratio is 8:1 or less.

NOTE: CD/PDC approval is required for any loan modification action that changes the interest rate from below market rate to market rate.

APPENDIX 17

REASONS FOR WITHDRAWAL OF APPLICATION

The following are the standard reacceptance rights contained in each withdrawal letter:

1. Be in writing and be received by this office no later than six months from the date of this letter.
2. Contain significant new information that will overcome the withdrawal reason(s).
3. Include a completed, signed and dated (with current date), Tax Information Authorization, IRS Form 8821/4506-T. The form may be obtained from the IRS at www.irs.gov or you may contact our Customer Service Center at 1-800-659-2955.
4. (Optional text for additional items).

Withdrawal Code 51
Requested information was not furnished

We have withdrawn your application from active consideration because you did not furnish the requested additional information necessary to process your loan application.

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

Withdrawal Code 52
Applicant's request a change in plans

At your request we have withdrawn your application from active consideration.

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

Withdrawal Code 54
Applicant's request due to availability of insurance or other recovery

We have withdrawn your application from active consideration. You stated that due to the availability of insurance or other recovery the requested loan is no longer needed.

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

Withdrawal Code 56
(Select Option A or Option B below)

Option A - Unable to verify property

We have withdrawn your application from active consideration because we have been unable to gain access to the disaster damaged property for an on-site inspection.

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

Option B - Custom text

(Insert Custom Text)

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

Withdrawal Code 57
Consolidation of multiple applications

We have received multiple applications and/or duplicate claims for damages caused from the same disaster declaration. We have consolidated all of your eligible disaster losses under one application and assigned it to a Loan Officer for processing. The remaining application(s) has been withdrawn from active consideration.

Withdrawal Code 58
Consolidation of related applications

We have received multiple applications and/or duplicate claims for damages caused from related disaster declarations. We have consolidated all of your eligible disaster losses under one application and assigned it to a Loan Officer for processing. The remaining application(s) has been withdrawn from active consideration.

Withdrawal Code 59
IRS has no record

We have withdrawn your application from active consideration because we cannot document (**individual's or entity's name**) income. SBA uses Federal Income Tax Returns as its source for documenting income. In response to our inquiry of the Internal Revenue Service (IRS), they reported "no record found" for a filing of a tax return by (**individual's or entity's name**) for the year(s) _____.

If you disagree with the IRS determination that no tax records were found for the year(s) referenced above, you may contact your local IRS office regarding this discrepancy. Your local IRS office can give you any necessary documentation to resolve this discrepancy.

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

Code 60—Character Eligibility Determination
60-a: Withdrawal of an otherwise approvable application

We have withdrawn your application from active consideration pending a formal character eligibility determination. It is not in the public interest for SBA to extend financial assistance to persons who are not of good character. Therefore, we are required by regulation to perform a character eligibility determination for any applicant who responds affirmatively to the personal history question asked in the application. We consider behavior, candor, integrity, and disposition of criminal actions in our character determination.

You have the right to request reacceptance of your withdrawn application. In order to request reacceptance and begin a character eligibility determination, you must provide the information outlined below.

(Select Option A or Option B below)
Option A– SBA Form 912 Statement of Personal History and Form FD-258 Fingerprint Card.

We have enclosed SBA Form 912, Statement of Personal History, and Form FD 258 (Fingerprint Card) to be completed by (name). Fingerprints may be taken at various county and state agencies. A fee is usually charged for this service. To assist you in this process, you may wish to contact one of the following:

1. Department of Motor Vehicles
2. Local Law Enforcement Agencies
3. Private Fingerprint Companies

Please take care to ensure that the prints do not smudge. Do not fold Form FD-258. Please return the completed Form FD-258 and Form 912 to the following address:

U.S. Small Business Administration
Processing and Disbursement Center
14925 Kingsport Road
Fort Worth, TX 76155-2243

To be sure that we consider all relevant information, also provide the following documentation:

1. A **detailed narrative** describing the circumstances of each event, including:
   A. The incident date(s).
   B. The city and state in which the incident(s) occurred.
   C. The nature of the incident(s), including arrest, conviction, and description.
   D. The penalties, such as fines, time served, parole, probation, etc.
   E. The disposition (dismissal, sentence(s) served, etc.).

2. Copies of records from the police, probation authorities, court, etc., including all documents relating to the events.

3. Other details that we should consider, such as character reference(s) from reputable third party(s), a letter from your probation and/or parole officer, etc.

This information must be received within six months of the date of this letter. Upon receipt, we will forward the completed documentation to the Office of Security Operations in Washington, D.C. Your application will remain inactive until a character evaluation is completed.
If you have any questions regarding this matter, please contact us at the number listed above.

Option B Form FD-258 Fingerprint Card (only).

We are required to obtain fingerprints from (name) on the enclosed Form FD 258. Fingerprints may be taken at various county and state agencies. A fee is usually charged for this service. To assist you in this process, you may wish to contact one of the following:

1. Department of Motor Vehicles
2. Local Law Enforcement Agencies
3. Private Fingerprint Companies

Please take care to ensure that the prints do not smudge. Do not fold Form FD-258. Please return the completed Form FD-258 to the following address:

U.S. Small Business Administration
Processing and Disbursement Center
14925 Kingsport Road
Fort Worth, TX 76155-2243

To be sure that we consider all relevant information, also provide the following documentation:

1. A **detailed narrative** describing the circumstances of each event, including:
    A. The incident date(s).
    B. The city and state in which the incident(s) occurred.
    C. The nature of the incident(s), including arrest, conviction, and description.
    D. The penalties, such as fines, time served, parole, probation, etc.
    E. The disposition (dismissal, sentence(s) served, etc.).

2. Copies of records from the police, probation authorities, court, etc., including all documents relating to the events.

3. Other details that we should consider, such as character reference(s) from reputable third party(s), a letter from your probation and/or parole officer, etc.

This information must be received within six months of the date of this letter. Upon receipt, we will forward the completed documentation to the Office of Security Operations in Washington, D.C. Your application will remain inactive until a character evaluation is completed.
If you have any questions regarding this matter, please contact us at the number listed above.

60-w: Withdrawal (insert in withdrawal letter after/reacceptance requirements)

In addition to the reason(s) for withdrawal explained above, we are required by regulation to perform a character eligibility determination for any applicant who responds affirmatively to the personal history question asked in the application. We consider behavior, candor, integrity, and disposition of criminal actions in our character determination. At this time, the character element of SBA's loan consideration has not been resolved. If you ask us to reaccept your application, you must provide the information outlined below with your reacceptance request.

(Select Option A or Option B below)

Option A

We have enclosed SBA Form 912, Statement of Personal History, and Form FD 258 (Fingerprint card) to be completed by (name). Fingerprints may be taken at various county and state agencies. A fee is usually charged for this service. To assist you in this process, you may wish to contact one of the following:

1. Department of Motor Vehicles
2. Local Law Enforcement Agencies
3. Private Fingerprint Companies

Please take care to ensure that the prints do not smudge. Do not fold Form FD-258. Please return the completed Form FD-258 and Form 912 to the following address:

U.S. Small Business Administration
Processing and Disbursement Center

14925 Kingsport Road
Fort Worth, TX 76155-2243

To be sure that we consider all relevant information, also provide the following documentation:

1. A **detailed narrative** describing the circumstances of each event, including:
    A. The incident date(s).
    B. The city and state in which the incident(s) occurred.
    C. The nature of the incident(s), including arrest, conviction, and description.
    D. The penalties, such as fines, time served, parole, probation, etc.
    E. The disposition (dismissal, sentence(s) served, etc.).

2. Copies of records from the police, probation authorities, court, etc., including all documents relating to the events.

3. Other details that we should consider, such as character reference(s) from reputable third party(s), a letter from your probation and/or parole officer, etc.

This information must be received within six months of the date of this letter. Upon receipt, we will forward the completed documentation to the Office of Security Operations in Washington, D.C. Your application will remain inactive until a character evaluation is completed.
If you have any questions regarding this matter, please contact us at the number listed above.

Option B

We are required to obtain fingerprints from (name) on the enclosed Form FD 258. Fingerprints may be taken at various county and state agencies. A fee is usually charged for this service. To assist you in this process, you may wish to contact one of the following:

1. Department of Motor Vehicles
2. Local Law Enforcement Agencies
3. Private Fingerprint Companies

Please take care to ensure that the prints do not smudge. Do not fold Form FD-258. Please return the completed Form FD-258 to the following address:

U.S. Small Business Administration
Processing and Disbursement Center
14925 Kingsport Road
Fort Worth, TX 76155-2243

To be sure that we consider all relevant information, also provide the following documentation:

1. A **detailed narrative** describing the circumstances of each event, including:
    A. The incident date(s)
    B. The city and state in which the incident(s) occurred.
    C. The nature of the incident(s), including arrest, conviction, and description.
    D. The penalties, such as fines, time served, parole, probation, etc.
    E. The disposition (dismissal, sentence(s) served, etc.).

2. Copies of records from the police, probation authorities, court, etc., including all documents relating to the events.

3. Other details that we should consider, such as character reference(s) from reputable third party(s), a letter from your probation and/or parole officer, etc.

You must provide this information with your reacceptance request. Upon receipt, we will forward the completed documentation to the Office of Security Operations in Washington, D.C. If the reasons for the withdrawal can be overcome, we may proceed with the processing of your application only after the character evaluation is completed.

Withdrawal Code 61
Applicant's Request Due to market rate

We have withdrawn your application from active consideration. You stated that the loan terms were not acceptable due to the interest rate.

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

Withdrawal Code 66
Military Reserve EIDL-Official Call-up Orders
We have withdrawn your application from active consideration because we cannot complete the processing of your application until we receive a copy of the essential employee's official call-up orders showing the date of deployment to active duty status.

You have the right to request reacceptance of your withdrawn application. However, your request must comply with the following requirements:

APPENDIX 18

REASONS FOR DECLINE OF APPLICATION

The following are the standard reconsideration rights contained in each decline letter:

1. Be in writing and be received by this office **within 6 months** from the date of this letter.
2. Contain significant new information that you believe will overcome the decline reason(s).
3. Include a completed, signed and dated (with current date), Tax Information Authorization, IRS Form 8821/4506-T. The form may be obtained from the IRS at www.irs.gov or you may contact our Customer Service Center at 1-800-659-2955.

*** Decline Code 20**

Lack of repayment ability - Applicant's income below minimum income level for the family size
(NOTE: Used in Summary Decline, Auto-Decline, and Pre-LV Review processes only.)

Your loan request indicates monthly household income of approximately $(*Monthly income*) and a household size of *(household size number) member(s)*. We conclude that there is no reasonable assurance that your household budget can support the additional debt which would result from a disaster loan.

***Decline Code 21**

Lack of repayment ability

Our analysis of all the information provided with your loan application concluded your income is insufficient to repay a disaster loan in addition to your existing debts, living expenses, taxes, insurance, and other obligations.

Decline Code 22 (NOTE: Only for business physical loans with Credit Available Elsewhere. Does not apply to non-profits.)

Lack of ability to repay a disaster loan within a maximum seven-year term

Federal law requires SBA to determine whether credit in an amount needed to accomplish full disaster recovery is available from nongovernmental sources on reasonable terms and conditions without creating an undue financial hardship. The law calls this Credit Available Elsewhere.

Disaster loans are taxpayer subsidized. Congress intended that applicants able to provide funding for their own recovery must receive disaster loans at a higher rate of interest in order to encourage applicants to seek nongovernment assistance. In the case of this disaster, that interest rate is___% for disaster business loans. Further, the law limits loans to businesses with Credit Available Elsewhere to a maximum repayment term of seven (7) years.

We determined through a comprehensive analysis of all the financial and credit information included with your application (insert name of applicant) has Credit Available Elsewhere. Our analysis indicated

you could obtain financing from nongovernmental sources on reasonable terms in an amount sufficient to repair your disaster-damaged property.

Consequently, any loan we could offer must be at the higher interest rate and the seven (7) year maximum term. We concluded your income is insufficient to repay the loan within the maximum term of seven (7) years permitted by law.

Decline Code 23 (NOTE: This reason to be used where repayment ability is based on forecast rather than historical information.)
Inadequate cash flow to repay a disaster loan and meet other obligations

We carefully examined the forecasted revenues and expenses you provided to assess your ability to repay a disaster loan. We are unable to use those figures as a basis for repayment because they do not appear to be reasonably attainable.

Our analysis of all the information provided with your loan application concluded there is a lack of reasonable assurance your business can generate adequate cash flow to repay a disaster loan in addition to its existing debts, expenses, taxes, insurance, and other obligations.

Decline Code 24 (NOTE: Never use as only reason for decline.) Excessive amount of debt relative to net worth

Our analysis of the financial information you submitted shows that the business' liabilities prior to the disaster substantially exceed either the assets of the business or the owner's investment. This unsatisfactory financial condition would not change even if SBA were able to approve a disaster loan in the amount of your eligible losses.

Decline Code 25 (NOTE: Never use as only reason for decline.) Inadequate working capital even if SBA could approve a loan

The sole purpose of an Economic Injury Disaster Loan (EIDL) is to help a small business meet its working capital requirements during the disaster-affected period until normal operations resume. The amount of an applicant's economic injury eligibility cannot exceed the working capital needs the business and its owners could have covered if the disaster had not occurred.

Generally, we measure economic injury by comparing the gross margins generated by the business during the period affected by the disaster to those generated in similar, non-disaster periods. The differences show the disaster's financial impact on the business' operations. Next, we determine the amount of funds the business and its owners need until normal operations resume. Finally, we compare the disaster's impact on operations with the identified financial needs. The smaller of these two amounts is the business' maximum economic injury eligibility.

Our evaluation of the information you submitted with your application shows that the financial needs of the business and its owners substantially exceed the disaster's impact on its operations. We concluded that you could not have covered all of the business' working capital requirements even if there had not been a disaster. Because you do not have the resources to meet this working capital shortage, we are unable to offer you a disaster loan.

*** Decline Code 26**
Unsatisfactory history on an existing or previous SBA loan
Our records indicate that (*insert name*) is named on SBA loan, (*insert loan number*).

Option 1 The hazard/windstorm insurance requirements have not been maintained on this loan.
Option 2 The loan has an unsatisfactory payment history.

As a result of this unsatisfactory performance, we are unable to offer you additional SBA loan assistance.

*** Decline Code 27**
Unsatisfactory history on a Federal obligation

We lack reasonable assurance that the applicant will comply with the terms of the loan agreement based on unsatisfactory experience on an existing or previous Federal obligation.

*** Decline Code 28**
Unsatisfactory credit history

Our evaluation of your credit report and related information indicates that you have not complied with the terms of your prior debt obligations. As a result, we lack reasonable assurance of your willingness or ability to comply with the terms of a disaster loan. We based this decision on information obtained from:

Option 1 Equifax, P.O. Box 740241, Atlanta, GA 30374-0241, (800) 685-1111.
Option 2 Experian P.O. Box 2104 Allen, TX 75013, (866) 200-6020.
Option 3 Transunion P.O Box 390 Springfield, PA 19064, (800) 888-4213.

*** Decline Code 29** (NOTE: Use for other than a credit bureau.) **Unsatisfactory debt payment history**

We carefully examined your history of paying debt obligations. Our evaluation indicated that you have not complied with the terms of your prior debt obligations. As a result, we lack reasonable assurance of your willingness or ability to comply with the terms of a disaster loan. We based this decision on a source other than a credit reporting agency.

You may submit a written request for the disclosure of the nature, not the source, of the information upon which we based the decline action. Your request must be received within 60 days from the date of this letter.

Decline Code 30 (NOTE: Use only when the verified loss is zero.) No disaster-related damage

SBA disaster loans are available only for property damage directly caused by the declared disaster. Based on our on-site inspection of your property, we determined the (disaster event) did not cause damage to your property.

Decline Code 31
Economic injury is not substantiated

The sole purpose of an Economic Injury Disaster Loan (EIDL) is to help a small business meet its working capital requirements during the disaster-affected period until normal operations resume. Economic injury is a change in the financial condition of a small business concern that is directly attributable to the effects of the declared disaster. This change in financial condition must result in the business being unable to meet its obligations as they mature or to pay ordinary and necessary operating expenses.

Generally, we measure economic injury by comparing the gross margins generated by the business during the period affected by the disaster to those generated in similar, non-disaster periods. The differences

show the disaster's financial impact on the business' operations. Next, we determine the amount of funds the business and its owners need until normal operations resume. Finally, we compare the disaster's impact on operations with the identified financial needs. The smaller of these two amounts is the business' maximum economic injury eligibility. Economic injury disaster loans cannot exceed the financial requirements the business and its owners could have covered had there been no disaster.

Option A - (No needs)

Our analysis of the financial information provided with your application indicates you have been able to meet all financial needs attributable to (declared disaster event) through your own resources without undue hardship. Because there are no unmet financial needs, we cannot substantiate any eligible economic injury.

Option B - (Disaster Gross Margin Exceeds Normal)

Our analysis of the financial information you provided with your application revealed the gross margins generated during the period affected by the disaster exceeded your normal, non-disaster levels. As a result, we cannot substantiate any eligible economic injury.

Option C - (Custom Text)

Decline Code 32 (NOTE: Use only for EIDLs.) Business activity is not eligible
Economic Injury Disaster Loans (EIDL) are available only to a small business engaged in an eligible business activity. Business activity means the nature of the business conducted by the applicant.

When the applicant, together with any affiliates, conducts more than one business activity, we first determine the applicant's main business activity. Generally, the main business activity is the one that produces the most revenue. We then identify the business activity that was impacted by the declared disaster event. This is called the loss activity. Both the main activity and the loss activity must be eligible in order to be eligible for an EIDL.

In your case, the information you submitted with your application does not meet SBA regulations for an eligible business activity.

Decline Code 33 (NOTE: Use only for EIDLs.)
Not eligible because the applicant is not a small business

Federal law limits Economic Injury Disaster Loans (EIDL) to small businesses only. To be eligible for an EIDL, an applicant must not exceed the SBA size standard for its industry. For different industries, size standards are measured by either revenues or number of employees. The test is applied to the industry in which the applicant alone is primarily engaged. Additionally, if the applicant has any affiliates, it is also applied to the industry in which the applicant together with its affiliates is primarily engaged.

Based on our analysis of the information you provided, the business activity is (insert NAICS BUS Activity) and the primary activity is (insert NAICS Primary Activity). As a result, (insert Applicant Name) does not meet the requirement to be a small business for this purpose. If you disagree with our decision, you may request a formal size determination by completing the attached SBA Form 355.

Decline Code 34 (NOTE: Use only for EIDLs.) Credit is available elsewhere

Federal law requires SBA to determine whether credit (based on available assets and uncompensated losses of the applicant/principal/affiliates) in an amount needed to accomplish full disaster recovery is available from nongovernment sources on reasonable terms and conditions without creating an undue financial hardship. The law calls this Credit Available Elsewhere.

Disaster loans are taxpayer subsidized. Congress intended that applicants able to provide funding for their own recovery must do so and are not eligible for Economic Injury Disaster Loans (EIDL). We analyzed your loan application and supporting financial information to determine all income, assets and debts. We concluded that (*Applicant Name*) has Credit Available Elsewhere and is not eligible for EIDL assistance.

Decline Code 35
Not located in the declared disaster area

Option A - (For physical applications)

To be eligible for SBA disaster loan assistance, the damaged property must be located within the area named in the disaster declaration. According to information in your application, your property is not within the declared disaster area.

Option B - (For EIDL applications)

To be eligible for a SBA Economic Injury Disaster Loan (EIDL), applicants must be located within the area named in the disaster declaration. This means that the business must have a physical presence in the area named in the disaster declaration. An economic presence alone does not meet the location requirement.

After considering the information you presented in your application, we determined that you do not have a physical presence in the area named in the disaster declaration.

Decline Code 36 (NOTE: To be used for secondary homes, etc.) Ineligible real property

Federal regulations limit disaster loans to certain types of real property in order to avoid using taxpayer-subsidized funds for non-essential purposes. Disaster-damaged residential property is eligible for SBA assistance if the property is the applicant's primary residence or if it is a qualified rental property.

According to the information you provided, the damaged property is neither your primary residence nor a qualified rental property. Some applicants may have more than one residence; however, a disaster survivor, for SBA disaster loan purposes, can only have one primary residence.

The following usually identifies a primary residence:

1. The applicant has filed for homestead exemption on the disaster damaged property for property tax purposes.

2. The address of the damaged property is used by the applicant for voting purposes.

3. The address of the damaged property is used to identify the school district to which the applicant's children are assigned.

4. The applicant uses the address of the damaged property on Federal Income Tax Returns.

5. The applicant uses the damaged property residence the greatest percentage of the year.

6. Other similar factors.

Decline 37
Ineligible personal property

Some types of personal property are not eligible for SBA disaster loan assistance. This restriction is provided by Federal regulation in order to avoid using taxpayer subsidized funds for non-essential purposes. Examples of ineligible personal property are recreational vehicles, collectibles, cash, etc.

The damaged property for which you requested assistance is not eligible.

Decline Code 38

Not eligible due to recoveries from other sources

SBA disaster assistance is available for disaster losses that are not fully compensated by insurance recoveries, grants, or other sources. According to our information, you received compensation in amounts that fully cover your eligible disaster damages.

Decline Code 39

Option A –
Not eligible due to failure to maintain flood insurance coverage on an existing SBA loan

(Name of borrower or guarantor) is named on an existing SBA loan, (*insert loan number(s*)). The terms and conditions of that loan agreement required (*name of borrower or guarantor*) to purchase flood insurance for the property located at (*specify address*), and to maintain that coverage for the life of the loan.

Our analysis shows that the required flood insurance coverage on the existing loan was not in effect at the time of the disaster. As a result of the failure to maintain the required insurance coverage, you are not eligible for SBA disaster assistance.

Option B -
Reserved

Option C -
Not eligible due to failure to maintain required flood insurance as directed by the Federal Emergency Management Agency (FEMA)

You are not eligible for SBA disaster loan assistance because you failed to maintain flood insurance as a condition of a previous grant from the Federal Emergency Management Agency (FEMA). The National Flood Insurance Reform Act of 1994 prohibits SBA from providing disaster loan assistance to applicants that failed to comply with an existing Federal flood insurance requirement.

Our analysis shows that the required flood insurance coverage on your home was not in effect at the time of the disaster. As a result of your failure to maintain the required flood insurance coverage, you are not eligible for SBA disaster assistance.

Decline Code 40 (NOTE: This includes situations such as claimed business income not supported by FTRs, undeclared rental income, income from hobbies, business ventures not in the organizing stage, etc.)

Not a qualified business
Option A – Business

To be eligible for SBA disaster loan assistance, the applicant must be a qualified business. All disaster business applicants must provide documentation, such as Federal Tax Returns or other evidence to establish their operation as a qualified business.

Based on our analysis of the information provided with your application, we are unable to establish that a qualified business existed at the time of the disaster.

Option B – Rental

To be eligible for SBA disaster loan assistance, the disaster damaged property must be a qualified rental. All disaster business applicants must provide documentation, such as Federal Tax Returns or other evidence to establish their operation as a qualified rental.

Based on our analysis of the information provided with your application, we are unable to establish that a qualified rental existed at the time of the disaster.

Decline Code 41
Refusal to pledge available collateral

Collateral is required for the proposed disaster loan, and SBA determines the best available collateral to secure the loan. If an applicant offers other collateral, we try to accommodate their request. However, SBA makes the final determination of what collateral will best protect the government's interest. SBA may decline a loan request if the applicant refuses to pledge available collateral.

Our review of the information submitted with your application indicates that you have collateral available to secure the proposed loan, but you have refused to pledge the collateral SBA requested.

**** Decline Code 42**
Not eligible due to delinquent child support payments

Federal law prohibits SBA from approving a disaster loan to an applicant who is more than sixty (60) days delinquent on child support obligations. These obligations include administrative orders, court orders, and agreements requiring the payment of child support.

The information available to us indicates that you have a child support obligation that is delinquent in excess of sixty (60) days.

**** Decline Code 43**
Not eligible due to character reasons

To be eligible for SBA disaster loan assistance, an applicant must be of good character. In cases where the applicant is a corporation, partnership, or limited liability entity, the character issue extends to the principals of the business.

SBA has determined that (insert name of individual) does not meet SBA's character standards. This decision is based upon the Statement of Personal History, related documents submitted with the application, and government record checks.

** 60-d: Decline (Insert in decline letter after reconsideration requirements)

In addition to the reason(s) for decline explained above, we are required by regulation to perform a character eligibility determination for any applicant who responds affirmatively to the personal history question asked in the application. We consider behavior, candor, integrity, and disposition of criminal actions in our character determination. At this time, the character element of SBA's loan consideration has not been resolved. If you ask us to reconsider our decline decision, you must provide the additional information outlined below with your reconsideration request.

Decline Code 44I
Lack of repayment ability – Below minimum income level for the family size based upon the applicant's income alone

We examined your loan application and supporting financial information to establish your income and debts. We based our analysis on your income only, because you informed us that your spouse or the co-owner chose not to be an applicant for the disaster loan. We conclude that there is no reasonable assurance that your household budget can support the additional debt, which would result from a disaster loan.

Decline Code 44R
Lack of ability to repay a disaster loan based upon the applicant's income alone

We examined your loan application and supporting financial information to establish your income and debts. We based our analysis on your income only, because you informed us that your spouse or the co-owner chose not to be an applicant for the disaster loan. Therefore, we conclude that there is no reasonable assurance that your budget can support the additional debt, which would result from a disaster loan.

Decline Code 46

Option A–
Agricultural enterprises are not eligible

By law, agricultural enterprises are not eligible for disaster assistance from SBA. The law makes SBA disaster loans available to homeowners, renters, nonfarm businesses, and private non-profit organizations.

The law defines ineligible agricultural enterprises as those businesses that are engaged in the production of food and fiber, ranching and raising of livestock, aquaculture (except for economic injury disaster loans), and all other farming and agricultural related industries.

According to the information provided with your loan application, your business meets the definition of an agricultural enterprise and is not eligible for SBA disaster assistance. You may wish to contact the U.S. Department of Agriculture for information regarding their disaster recovery programs.

Option B -
Members of a fishing crew do not qualify as an eligible small business concern

To be eligible for an Economic Injury Disaster Loan (EIDL), an applicant must be an independently owned and operated small business concern. The owners must have a substantial business risk resulting from investing in facilities or equipment, and must incur significant expenses regardless of whether the operation generates a profit. The owner(s) must share in the risk of both the profits and the losses.

Your application indicates that at the time of the disaster you were a crew member on a fishing vessel owned by another party. As a crew member, you had no liability for trip expenses, vessel payments, or other fixed costs that must be paid, even if the catch did not cover the trip's expenses. Because you do not have a substantial business risk, you do not own and operate an eligible business concern.

Option C -
Not eligible due to property being located in a Coastal Barrier Resource Area

Federal law prohibits SBA from approving a disaster loan for any purpose within a Coastal Barrier Resource Area (COBRA) as defined by the Department of Interior, Fish and Wildlife Services.

Our analysis indicates that your disaster damaged property is located within a COBRA and is not eligible for SBA disaster assistance.

Option D - Custom Text

Decline Code 47

Option A
***Not eligible due to policy (NOT a qualified alien, Minor applicant)**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) states that a 'federal public benefit" can only be provided to U.S. citizens, non-citizen nationals, and qualified aliens in the United States. SBA disaster loan assistance is a federal public benefit under this law. In reviewing your application, along with FEMA registration data, we determined that the application was made by a member of the household who is a minor and not legally able to contract debt. As a result, you are not eligible for SBA disaster loan assistance.

Option B
***Not eligible due to policy (NOT a qualified alien, adult applicant using minor's SSN)**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) states that a 'federal public benefit" can only be provided to U.S. citizens, non-citizen nationals, and qualified aliens in the United States. SBA disaster loan assistance is a federal public benefit under this law. SBA requests a Social Security number or Tax Identification number (SSN/TIN) from all applicants. In reviewing your application, along with FEMA registration data, we determined that the SSN/TIN provided with your application belongs to a member of the household who is a minor. As a result, you are not eligible for SBA disaster loan assistance.

Option C
Not eligible due to policy (non-citizen, NOT a qualified alien)

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) states that a 'federal public benefit" can only be provided to U.S. citizens, non-citizen nationals, and qualified aliens in the United States. SBA disaster loan assistance is a federal public benefit under this law. Documentation received with your loan application indicates that you are neither a U.S. Citizen, non-citizen national, or qualified alien. As a result, you are not eligible for SBA disaster loan assistance.

*Home loan applicants declined for these coded reasons are referred to FEMA for possible grant consideration.

**Home loan applicants declined for these coded reasons are referred to FEMA for possible grant consideration only when SBA has determined that the applicant is also financially ineligible for a loan.

APPENDIX 19
USE OF LOAN PROCEEDS

You must allocate loan funds to the appropriate use of proceeds (UP) code(s). The use of proceeds is included in the LAA and tells the borrowers the expected expenditure of their SBA disaster loan funds.

Proceeds Code	Proceeds Description	H	B	EI Only	MR EIDL
UP-01	Personal Property	X			
UP-02	Motor Vehicle (see code 54 for business vehicles)	X			
UP-04	Manufactured Housing	X	X		
UP-05	Refinance Real Estate Lien (use code 58 for business RE)	X			
UP-06	Refinance Manufactured Housing/Other Lien	X	X		
UP-07	Repay IHP Grant (must be first disbursement)	X			
UP-08	Refinance Funds as Reimbursement (Eligibility for Refinance established after Lien payoff/pay down from other Sources)	X	X		
UP-09	Payment of One-Time Assessment (Unit Owner)	X	X		
UP-17	Real Estate Repair/Replacement	X	X		
UP-18	Real Estate Relocation Purchase/Construction	X	X		
UP-19	Total Real Estate Reconstruction (at damaged site)	X	X		
UP-20	Landscaping	X	X		
UP-24	Debris Removal	X	X		
UP-25	Other Land Improvements (including bridges, retaining walls, etc.)	X	X		
UP-26	Mitigation	X	X		
UP-27	Engineering/Architectural Reports	X	X		
UP-28	Geological Studies	X	X		
UP-29	Moving and Storage Expenses	X	X		
UP-30	Interim Financing	X	X		
UP-41	Code Required Damaged Structure Elevation	X	X		
UP-42	First Year's Insurance Premium	X	X		
UP-43	Typhoon Repair	X	X		
UP-44	Typhoon Real Estate Replacement	X	X		
UP-45	Contractor Malfeasance	X	X		
UP-50	Inventory		X		
UP-51	Machinery and Equipment		X		
UP-52	Furniture and Fixtures		X		
UP-53	Leasehold Improvements		X		
UP-54	Vehicles (business vehicles only)		X		
UP-55	Vessels	X	X		
UP-56	Aircraft	X	X		
UP-58	Refinance Real Estate (business)		X		
UP-59	Refinance Machinery & Equipment/Other Liens		X		
UP-60	Working Capital			X	X
UP-61	Working Capital with Periodic Disbursements			X	X
UP-62	Note(s) Payable			X	X
UP-63	Accounts Payable			X	X
UP-64	Working Capital for Business/EIDL (B/E) Loan		X		
UP-00	Custom Use of Proceeds	X	X	X	X

APPENDIX 20

CATALOG OF OPTIONAL LOAN AUTHORIZATION TEXT

This appendix is reserved for the Catalog of Optional Loan Authorization Text for disaster loans. All conditions used in the LAA are included in the catalog.

Place your copy here for reference.

APPENDIX 21

CANCELLATION CODES

Agency Cancellation

C10. Failure to complete and return all loan closing documents.

C11. Failure to satisfy all terms and conditions of the loan.

C12. Adverse change. - IHP referral.

C13. Adverse change. - Other.

C14 Subsequent recoveries exceed verified loss.

C15. RESERVED

C16. Other reasons. – (Agency Decision)

Cancellation at Borrower's Request

C20. Adequate recovery from other sources.

C21. Reluctant to incur additional debt.

C22. Dissatisfied with loan terms and conditions.

C23. Dissatisfied with insurance requirements.

C24. Unwilling to pledge collateral.

C25. RESERVED

C26. Other reasons. – (Borrower Decision)

C27. Dissatisfied with loan interest rate (market rate). – (Borrower Decision)

INDEX

This index used key words to refer to the indicated paragraph or appendix. CFR references refer to CFR Title 13.

Accelerated debt	3.31, A12
Acceptable application	2.12, 3.30, A9
Accrued interest	7.10
Administrative limit	3.1, 3.20, 3.24, 3.27, 3.29, 4.3, 7.5
Affiliate	2.4, 3.30, 3.31, 3.32, 6.6, 7.6, 7.12, A7, A10, A12, A16
Agency declaration	2.3, 2.6, 3.26, 3.30, 7.11, 7.14, 9.12
Agricultural cooperative	1.2, ,2.4, 3.1, 3.30, 3.31
Agricultural enterprises	3.4, 3.22, 3.30
Agricultural property	3.11
Aircraft	3.18, 3.19, A19
Alien	3.1, A8
Alimony	6.1, 6.5, A6
Alternate use of loan eligibility	3.20, 3.29
Animals	3.16
Anti-discrimination	7.17
Antiques	3.16
Appeal	3.32, 7.29, 7.32, 8.1, A10
Appeal of reconsideration	7.32, 8.1
Applicant eligibility	3.3, 3.27
Applicant's character	3.3, 3.6
Application entry	2.3, 2.13, A9, A15
Application forms	2.3, A3, A5
Aquaculture	2.4, 3.1, 3.4, 3.30, 3.31
Artwork	3.16
Asset sale	8.1
Assignment of insurance	3.1, 4.3
Associated files	7.3, 7.28
Associations	3.1, 3.2, 3.25, 3.26, 3.30, 7.11, 9.12
Assumption of risk	3.4
Attitude	1.7
Authority	1.2, 1.5, 3.27, 3.31, 7.1, 7.6, 7.10, 7.29, 7.32, 8.1, 9.18
Authorized representatives	1.11
Auto-decline	4.1, 7.1, 7.29, A14, A15
Bailee	3.1, 7.13, 7.14
Balloon payment	7.10
Bankruptcy	5.7, 5.8, 8.3, 9.18, A14
Below average water levels	3.30
Beneficial owners	3.1
Boathouse	3.15, 3.22
Bonus	3.30, 3.31, 6.1
Borrower’s Progress Certification	9.14
Bridge loans	3.1, 3.27
Building codes	3.21, 3.28
Building permits	3.14, 7.18, 9.10

Business area 2.4, 3.10, 3.28, 7.3
Business Assistance Center (BAC) A3
Business contents eligibility 3.17
Business interruption insurance 3.31, 7.13, A12
Business Recovery Center (BRC) A3
Buyout 4.3

Cancellation 7.22, 8.2, 8.3, 8.4, 9.18, A21
CASAD 6.6, 7.10, A2, A10, A16
Case file consolidation 7.24
Case file documentation 1.13
Case Manager (CM) 9.1, 9.6, A2
Cash Available (CA) 6.5, 6.6, 7.10, A2
Casinos 3.30
Character determination 3.6
Check endorsement 7.1
Child support 3.3, 5.14, 6.1, 6.2, 6.5, 8.1, A6, A10
Chron Log 1.12, 1.14, 5.4, 7.4, 7.24, 7.25, 9.6, A2, A10
Citizenship documents A8
Civil disorder 3.4, 3.6
Coastal Barrier Islands 3.22
Code requirements 3.21, 3.27, 3.29, 4.3, 8.5
Collateral requirements 3.24, 3.25, 3.28, 7.11, 9.12
Collections 3.16, 5.5
Common road damage 3.26
Community Development Block Grants (CDBG) 4.3, 9.6, A2
Community property state 3.5
Community under sanction/ sanctioned community 3.22, 3.28, 7.14, A10
Companion files 7.3, A10
Condemned structures 3.22
Conditional commitment letter 3.9, 4.3, 7.4, 7.21, A2
Conditions, Covenants and Restrictions (CC&R) 3.23, 3.25, 3.28, A2
Congressional inquiries 1.14
Construction requirements 7.18, 9.10
Consumer Credit Protection Act 3.5, 7.27
Contested location in a SFHA 7.14
Contract for sale 3.1, 3.28, 3.30
Contractor malfeasance 3.27, 3.31, 7.18, 8.1, A19
Control 2.4, 3.30, 3.32, 7.12, A12
Conviction 3.6
Cooperative (co-op) 3.3, 3.26, 3.28, 3.30, 7.21, A2
Cost eligibility 3.12
Credit 3.1, 5.1-5.11, 5.14, 6.5, 7.6, 7.14, 7.25, 7.27, 8.2, 9.4, A16
Credit Bureau Report (CBR) 3.27, 5.2-5.7, 5.11-5.12, 6.5, 7.25, 7.29, 7.30, 8.2, A2
Credit Available Elsewhere/Credit Elsewhere 3.2, 3.29, 7.6, 7.9, 7.10, A2, A10, A13, A16
Credit Elsewhere Test (CET) 3.31, 7.9, A2, A11, A13, A16
Credit Score 6.2, A11, A16, A16
Custom condition 7.4, 7.20
Customer Service Center (CSC) 1.6, 2.1, 2.3, 2.6, 8.1 A2

Damage Verification Center (DVC) 1.6, 4.1, 7.25, A2

De minimis 9.6
Debris removal 3.1, 3.2, 4.3, 7.18, 9.10, A19
Declarations 1.4, 3.2, 3.31
Deductible 3.18, 4.3
Deferred maintenance 3.12,3.28
Delinquency on federal obligations 5.10
Delivery sequence 4.3
Demonstrated ability 6.5
Direct costs 3.12
Direct federal debt 3.31
Disaster area 1.5, 3.16, 3.22, 3.30, 7.6
Disaster Credit Management System (DCMS) 1.6, A2
Disaster Field Office (DFO) A2, A3
Disaster Loan Outreach Center (DLOC) 1.6, A2, A3
Disaster Recovery Center (DRC) 1.6, A2, A3
Dividend income 6.1, A6
Drought 3.30, A12
Due on sale 3.28
Dun and Bradstreet (D&B) 5.2, 5.3, 7.25, 7.29, 7.30, 8.2, A2
Duplication of Benefits (DOB) 2.4, 3.1, 3.23, 3.24, 3.28, 4.3, 7.25, 7.29, 7.30, 9.6, A2

Economic injury (EIDL) 1.2, 1.4, 2.4, 2.8, 3.30, 3.31, 3.32, 7.1, 7.3, 7.5, 7.9, 7.28, 8.5, 9.16, A5, A11, A12
Electronic Loan Application (ELA) 2.2, 2.3, 2.7, 2.9, 2.10, 2.12, 2.13, A2
Eligibility 2.4, 3.13.32, 4.3, 7.6, 7.16, 9.8, A9
Emergency living expenses 4.3, A2
Equal Credit Opportunity Act (ECOA) 3.5, A2,
Escrow accounts 9.17
Essential employee 1.2, 2.8, 3.30, 3.31, 7.10, A7, A9, A12
Essential services 1.4, 3.1, 3.2
Expansion of facilities 3.31

Failed income test (FIT) 2.1, A2
Failure to comply 3.4
Fair market value (FMV) 3.1, 3.27, 9.11, A2, A16
Farm related 3.30
Federal Emergency Management Agency (FEMA) 1.4, 2.1, 2.6, 2.13, 4.3, 7.8, 9.6, A2, A3, A6
Feedlot operators 3.4, 3.30
Field Operations Center (FOC) 1.6, 1.14, 2.1, 2.6, A2
Filing period 2.8, 3.29, A9, A14
Filing requirements 2.2, 2.4, 2.12, 3.30, A1, A5, A7, A10, A15
First payment due date 7.10, 7.19, 8.1, 9.6
Fisheries 1.14
Fixed debt method (FDM) 2.3, 2.12, 6.1, 6.5, 7.10,A2, A6, A15
Flood insurance requirements 3.4, 3.22, 7.14, 9.11
Flood zone determination 3.28, 4.1, 7.14
Formal size determination 3.32, 7.32, 8.1, A18
Forms 2.5, A1, A5
Free labor and materials 4.3, 9.6
Functional value 3.16
Future income prospects 6.5

Gambling concerns 3.30
Governmental entity 3.1
Governor's Certification 1.4, 3.2, 3.30, 3.31
Grace period 2.9, 2.10, 2.11, 7.22
Gross Margin 3.31, A2, A11, A12
Guarantee requirements 7.12

Hardship waivers A16
Hazard insurance 2.4, 7.11, 7.13, 9.4, 9.11
High income 6.5
Hobbies 3.3, 3.30
Homeowners association 3.1, 3.24, 3.28, 4.3
Homestead exemption 3.10
Housing Assistance (HA) 4.3, A2

Individuals and Households Program (IHP) 1.4, 2.1, 2.3, 4.3, A2, A4, A14, A19, A21
Incident period 2.8, 3.30, 3.31, A9, A12
Income test table 2.1, 2.3, A4, A6
Increases 3.29, 8.5
Independently owned and operated business 3.30
Indirect costs 3.12, 8.5
Individual Assistance (IA) 1.4, 3.2, 4.3, A2
Ineligible EIDL applicants 3.30
Ineligible personal property 3.16
Ineligible uses of loan proceeds. EIDL 3.31
Initial interview 2.3
Insurable property 7.14, 9.11
Insurance recoveries 3.1, 3.24, 3.27, 4.3, 7.18
Insurance requirements 2.4, 3.4, 3.22, 7.4, 7.11, 7.13, 7.14, 9.11, A21
Interest rates 7.9, A9
Interview topics 2.4
Investment concerns 3.30
Investment properties 3.12
Involuntary relocation 3.21, 3.28

Joint Field Office (JFO) A2, A3
Joint ownership 3.1, A9
Joint venture 3.30, 3.30, 3.32
Judgments 3.21, 5.5, 5.6, 8.3 9.18

Labor Surplus Area 3.32
Land eligibility 3.14
Landscaping 3.14, 3.15, 3.22, 3.29, 4.3, 7.5, 7.18, 9.10, A19
Late acceptance 2.11
Lawsuits 5.13, 8.3, 9.18
Lease extension requirement 7.11
Lease modification requirement 7.11
Lease requirement 3.29, 7.11
Leasehold improvements (LHI) 2.4, 3.1, 3.28, 3.29, 7.13, 7.14, 7.18, 9.10, A2
Legislative limit 3.29, 4.3, 7.5, 7.6
Limited eligibility 3.16

Limited liability entity (LLE) 3.1, 3.4, 3.6, 3.30, 3.32, 7.5, 7.21, A2, A14
Limited repayment ability 7.8
Living expenses 4.3, 6.5, A2
Loan approval 3.1, 3.12, 7.22, 7.23
Loan approval authority 7.1
Loan Authorization and Agreement (LAA) 7.20, 9.3, 9.6, A1, A2
Loan closing deadline 7.4
Loan closing documents (LCD) 7.22, 7.23, 8.1, 8.3, 8.4, 9.2, 9.3, 9.5, 9.18, A9
Loan limits 2.4, 7.3, 7.5, 7.11
Loan modifications 1.5, 7.1, 8.1, 9.18, A3, A10
Loan packagers 3.30
Loan servicing 8.6
Lobbying activities 7.20
Location of property 3.8
Loss activity 3.30
Loss in excess of lending limits 7.8
Lottery tickets 3.16

Major Source of Employment (MSE) 2.4, 3.31, 7.5, 7.6, 7.11, 7.19, 7.30, 8.1, 8.5, A2
Mandatory payoff 4.3
Mandatory relocation 3.16, 3.17, 3.24, 3.28
Manufactured housing eligibility 3.13
Market or commodity 3.30
Market rate 7.9, A16, A17
Marketing cooperative 3.30
Maximum Acceptable Fixed Debt (MAFD) 6.5, A2
Maximum term 7.10
Mechanics lien 3.27
Membership groups 3.3, 4.3
Military Reserverve EIDL (MREIDL) 1.2, 1.4, 2.8, 3.30-3.31, 7.9, 7.10, 7.11, 9.12, 9.16, A5, A7, A9
Mitigation 3.21, 3.29, 7.5
Moving and storage expenses 3.16, 3.17, A19

National Flood Insurance Program (NFIP) 3.22, 3.28, 7.14, A2
National Flood Insurance Reform Act (NFRA) 7.14, A2
National Processing Service Center (NPSC) A2
Native Americans 3.1
Negotiable instruments 3.16
Net Earnings Clause (NEC) 7.4, 7.6, 7.19, A2
No credit elsewhere 6.5, A2
Non-applicant owners 7.11
Non-participating community 3.22, 3.28, 7.14
Noncitizen nationals A8
Non-farm related 3.30
North American Industry Classification System (NAICS) 3.4, 3.30, 3.32, A2, A11
Notice of Disqualification (NOD) 3.22, 3.24, 3.28, 7.14, A2
Nurseries 3.1, 3.22, 3.30

Obligating loan funds 7.22
Obscene material 3.3
Occupancy 3.10, 3.14, 3.21, 3.22, 7.21

Office of Disaster Assistance (ODA) 1.6, 7.30, 8.1, A2
Office of Hearings and Appeals (OHA) 3.32, 7.32, 8.1, A2
Office of the Inspector General (OIG) 1.9, 6.4, A2, A14
Organizing businesses 3.1
Otherwise Protected Area (OPA) 3.22, 7.14, A2
Overhead and profit 4.3, 9.6

Parole 3.6, 3.30, A8
Participating community 3.22, 3.28, 7.14
Pawn shops 3.30
Performance bonds 7.18
Personal Financial Statement 3.5, A1, A5
Personal history question 2.13, 3.6
Phase I 3.31
Phase II 3.31, A9, A12
Planned Unit Development (PUD) 3.26, A2
Pre-application entry 2.6, A9
Pre-Loss Verification (Pre-LV) 7.1, A2, 7.29, A15
Prepayment penalty 3.27
Primarily engaged 3.22, 3.30, 3.32
Primary industry 3.30, 3.32, A11
Primary residence eligibility 3.10, A15
Principals 2.4, 7.12
Prior injection 3.26, 7.18, 9.4, 9.10
Prior lien holders 3.27, 7.11
Private colleges and universities 7.10, 8.1
Private non-profit (PNP) 3.1, 3.2, 3.30, 4.3, 7.9, 7.10, A2
Probation 3.6, 3.30
Processing and Disbursement Center (PDC) 1.6, 1.11, A2
Protective devices 3.21, 3.29, 4.3
Public Assistance (PA) 3.21, 3.29, 7.5
Public entities 3.4
Publicly owned institutions 3.4
Publicly owned property 3.22
Purchasers of damaged property 3.1

Racetracks 3.30
Ranchers 3.4
Reacceptance 3.6, 3.31, 7.24, 7.25
Real estate developers 3.30
Reconsideration of an Auto-Decline 7.29
Reconsideration of declined loan applications 7.29
Reconsideration MSE determination 8.1
Recreational facilities 3.15
Recreational vehicles 3.16, 3.18
Referral to FEMA 2.3, 8.3, 9.18
Referral to the Office of Inspector General 1.9
Refinancing 2.4, 3.27, 3.29, 9.18
Reimbursement to FEMA 9.6
Reinforcement of existing interior rooms 3.20
Reinstatement 8.1, 8.3, 8.4, 9.18

Religious organizations 3.1, 3.3, 3.30, 3.31
Relocation 2.4, 3.28, 4.3, A19
Rental property 3.1, 3.26, 3.30
Reorganization 5.8
Repayment ability 2.2, 2.4, 6.1, 6.5, 6.6, 7.8, A6
Retirement income 6.1, A10
Reverification 4.1, 4.2
Right to financial privacy A14
Riot 3.6
Rising water 7.14, 9.11
Road Associations 3.26
Rounding 7.7
Rule of two 7.1, 7.6, 8.1

Sanctioned community 7.14, A10
Schedule of Liabilities A1, A5, A7
Seasonal occupancy 3.22
Seaward of mean high tide 3.22
Secondary homes 3.22, 3.24
Secretary of Agriculture (SecAg) 1.2, 1.4, 2.8, 3.2, 3.30, 3.31, A2, A12
Secretary of Commerce 1.4, 3.2, 3.31
Seismic safety 7.18
Size determination 3.30, 3.32, 7.32, 8.1, A12
Size determination decline 7.32, 8.1
Size standards 3.30, 3.32, 7.32, A10, A11
Sizeable net worth 6.5
Social security income 6.1, A14
Special flood hazard area (SFHA) 3.22, 3.27, 3.28, 5.7, 7.14, 9.11, A2, A10
Special or unusual circumstances 3.28
Speculative activities 3.30
Standard deferment 6.5, 7.10, 9.6
Standard MAFD percentage 6.5
Subsequent disbursement 9.6, 9.7, 9.16, A9
Subsidiary 7.9, A16
Substantial damage 3.24, 3.27, 3.28, 3.29, 4.3
Summary decline 2.3, 2.12, 2.13, 7.1, 7.29, A1, A6

Tangible net worth 6.5
Target payment 3.25, 6.5, 7.10, A10, A16
Tax Information Authorization (8821/4506-T) 2.4, 2.12, 2.13, 6.3, A1, A5, A7, A14
Telephone contact 7.4
Tenants 3.1, 3.22, 3.28, 3.29, 7.11, 9.12
Terms and conditions 1.5, 3.4, 7.11, 7.20, 9.18, A9, A21
Time-share 3.24
Title policy 3.28, 9.13
Title search 3.28, 9.13
Totally destroyed 3.13, 4.3
Transferability of EIDL eligibility 3.31
Tribal owned businesses 3.1, 3.30
Truth in Lending Act (TILA) 7.23, 8.1, A1, A2
Tuition 6.5

U.S. Customs and Immigration Service (USCIS) A8
Unaffiliated concern 3.32
Uncompensated loss 2.4, 3.1, 3.27, 4.3, 8.3, A16
Uninsurable property 7.14
Unit owner 3.23, 3.24, 3.25, 3.28, 3.29, 7.11, 9.12, A2
Unsecured loan limit 7.11, 9.3, 9.12
Upgrading 3.16, 3.17, 3.21, 3.27, 3.28, 7.5
Use of proceeds 3.31, 4.3, 7.7, 7.14, 8.1, 9.3, 9.15, A12, A19

Vehicle eligibility 3.18
Verification of damage 2.4, 4.1
Vessel 3.19, 3.22, 7.13, 7.21, A11, A19

Wage Earner's Plan (WEP) 5.8, A2
Waiver of eligibility 3.1, 7.16, 9.8
Walk away 3.1
Wetlands protection 7.15
Withdrawal of applications 7.24