



# SBA Policy Notice

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**TO:** All Employees

**CONTROL NO.:** 5000-1097

**SUBJECT:** Implementation of Section 501 of the  
Recovery Act - Fee Elimination  
Provisions

**EFFECTIVE:** 3/16/2009

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On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (the "Recovery Act") (P.L. 111-5). Section 501 of the Recovery Act authorizes SBA to reduce or eliminate certain fees on 7(a) and 504 loans. The purpose of this Notice is to announce the implementation of fee eliminations in the 7(a) Loan Program and the 504 Development Company Program. A notice on this subject will also be published in the Federal Register.

## **Fee Eliminations**

**7(a) Loan Guarantee Fee Eliminations:** For 7(a) loans approved by SBA on or after February 17, 2009, SBA will temporarily eliminate the Small Business Act section 7(a)(18)(A) fees (upfront guaranty fees) for all eligible loans, including those made with higher SBA guarantees (up to 90%) as provided in section 502 of the Recovery Act. For eligible loans approved between February 17, 2009 and the date of this notice, the Agency will make funds available to refund payments for these fees. The Agency is developing a refund mechanism. SBA expects to be able to begin issuing refunds by approximately May 1, 2009. If borrowers have already paid lenders for the fee on eligible loans, lenders must reimburse the borrowers from the SBA refund.

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

SBA will eliminate upfront guaranty fees until the aggregate dollar amount of 7(a) loans made under this authority exhausts the funds dedicated to that purpose. SBA currently estimates that program level will be approximately \$8.7 billion. Depending on loan volume in the 7(a) program, SBA estimates that it will be able to eliminate upfront guarantee fees on loans approved through approximately December 31, 2009.

**504 Development Company Program Fee Eliminations:** For eligible loans approved through the Agency's section 504 Development Company Program on or after February 17, 2009, SBA will temporarily eliminate two program fees: 1) Third-Party Participation Fees (Small Business Investment Act Section 503(d)(2) fees codified at 13 CFR 120.972); and 2) CDC Processing Fees (13 CFR Section 120.971(a)(1) fees). Consistent with the Recovery Act's temporary elimination of CDC Processing Fees, CDCs will no longer be allowed to collect deposits from small business applicants that would have gone towards payment of the CDC Processing Fee

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**EXPIRES:** 3/1/2010

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SBA Form 1353.2 (12-93) MS Word Edition; previous editions obsolete  
Must be accompanied by SBA Form 58

upon loan approval under 13 CFR 120.935. SBA will reimburse the CDCs for the waived CDC Processing Fees.

SBA will pay CDCs two-thirds of the estimated CDC Processing Fee at the time of loan approval by SBA or upon the issuance of a loan number for a loan approved under the Premier Certified Lenders Program. The remainder of the fee will be paid immediately following debenture funding and will be equal to 1.5% of net debenture proceeds for which a CDC does not collect the CDC Processing Fee, minus the amount previously paid. If a borrower has already paid a CDC for the fee, the CDC must reimburse the borrower from the SBA refund. SBA will not permit CDCs to cancel loans approved by SBA prior to February 17<sup>th</sup>, 2009 and resubmit them in order to qualify for the reimbursement of the processing fee. If the Participation Fee has already been paid to SBA on an eligible loan, SBA will refund the fee.

SBA will eliminate the Participation Fee and the CDC Processing Fee until the aggregate dollar amount of 504 loans made under this authority exhausts the funds dedicated to that purpose. SBA currently estimates that program level will be approximately \$3.6 billion. Depending on loan volume in the 504 program, SBA estimates that it will be able to eliminate these fees on loans approved through approximately December 31, 2009.

### **Prohibition on Use of Funds**

Section 1604 of the Recovery Act states that none of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. Further guidance will be issued on this subject in the near future.

For loans for these Recovery Act prohibited uses, lenders and CDCs may continue to submit applications in accordance with SOP 50 10 5(A) and all applicable fees will apply.

### **Additional Requirements**

The provisions of the Small Business Act and the Small Business Investment Act applicable to the 7(a) and 504 programs and the regulations promulgated thereunder will continue to apply to loans made under the Recovery Act.

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

For questions concerning this Notice, please contact Grady B. Hedgespeth, Director, Office of Financial Assistance at (202) 205-6490 or by email at [grady.hedgespeth@sba.gov](mailto:grady.hedgespeth@sba.gov).

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Darryl K. Hairston  
Acting Administrator