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## **FEES ASSOCIATED WITH SBA LOANS**

To offset the costs of the SBA's loan programs to the taxpayer, the Agency charges lenders a guaranty fee and a servicing fee for each loan approved and disbursed. The amount of the fees are based on the guaranty portion of the loans. The lender may charge the upfront guaranty fee to the borrower after the lender has paid the fee to SBA and has made the first disbursement of the loan. The lender's annual service fee to SBA cannot be charged to the borrower.

For loans approved on or after December 8, 2004, the following fee structure applies:

For loans of \$150,000 or less, a 2 percent guaranty fee will be charged. Lenders are again permitted to retain 25 percent of the up-front guarantee fee on loans with a gross amount of \$150,000 or less.

For loans more than \$150,000 but up to and including \$700,000, a 3 percent guaranty fee will be charged.

For loans greater than \$700,000, a 3.5 percent guaranty fee will be charged.

For loans greater than \$1,000,000, an additional .25 percent guaranty fee will be charged for that portion greater than \$1,000,000. The portion of \$1,000,000 or less would be charged a 3.5 percent guaranty fee. The portion greater than \$1,000,000 would be charged at 3.75 percent.

The annual on-going servicing fee for all 7(a) loans approved on or after October 1, 2005 shall be 0.545 percent of the outstanding balance of the guaranteed portion of the loan. The legislation provides for this fee to remain in effect for the term of the loan.

## **PROHIBITED FEES:**

Processing fees, origination fees, application fees, points, brokerage fees, bonus points, and other fees that could be charged to an SBA loan applicant are prohibited. The only time a commitment fee may be charged is for a loan made under the Export Working Capital Loan Program.

## **INTEREST RATES:**

loans of \$50,000 or more must not exceed Prime Plus 2.25 percent if the maturity is less than 7 years, and Prime Plus 2.75 percent if the maturity is 7 years or more. It is calculated quarterly and published in the "Federal Register.

## **PREPAYMENT PENALTIES: (There are NO Prepayment Penalties for Loans with maturity under 15 years)**

Effective for all loans where the applications were received by the lender on or after December 22, 2000, a new prepayment charge paid by the borrower to SBA ("subsidy recoupment fee") has been added for those loans that meet the following criteria:

- a. have a maturity of 15 years or more where the borrower is prepaying voluntarily;
- b. the prepayment amount exceeds 25 percent of the outstanding balance of the loan; AND
- c. the prepayment is made within the first 3 years after the date of the first disbursement (not approval) of the loan proceeds.

The prepayment fee calculation is as follows:

- a. during the first year after disbursement, 5 percent of the amount of the prepayment;
- b. during the second year after disbursement, 3 percent of the amount of the prepayment; or
- c. during the third year after disbursement, 1 percent of the amount of the prepayment.

# Actual SBA SOP guidelines

## TITLE 13--BUSINESS CREDIT AND ASSISTANCE

### CHAPTER I--SMALL BUSINESS ADMINISTRATION

#### PART 103--STANDARDS FOR CONDUCTING BUSINESS WITH SBA

103.1 Key definitions.

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Authority: Secs. 5, 13, 72 Stat. 385, 394 (15 U.S.C. 634, 642).

Source: 61 FR 2681, Jan. 29, 1996, unless otherwise noted.

Sec. 103.1 Key definitions.

(a) Agent means an authorized representative, including an attorney, accountant, consultant, packager, lender service provider, or any other person representing an applicant or participant by conducting business with SBA.

(b) The term conduct business with SBA means:

(1) Preparing or submitting on behalf of an applicant an application for financial assistance of any kind, assistance from the Investment Division of

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SBA, or assistance in procurement and technical matters;

(2) Preparing or processing on behalf of a lender or a participant in any of SBA's programs an application for federal financial assistance;

(3) Participating with or communicating in any way with officers or employees of SBA on an applicant's, participant's, or lender's behalf;

(4) Acting as a lender service provider; and

(5) Such other activity as SBA reasonably shall determine.

(c) Applicant means any person, firm, concern, corporation, partnership, cooperative or other business enterprise applying for any type of assistance from SBA.

(d) Lender Service Provider means an Agent who carries out lender functions in originating, disbursing, servicing, or liquidating a specific SBA business loan or loan portfolio for compensation from the lender. SBA determines whether or not one is a "Lender Service Provider" on a loan-by-loan basis.

(e) Packager means an Agent who is employed and compensated by an Applicant or lender to prepare the Applicant's application for financial assistance from SBA. SBA determines whether or not one is a "Packager" on a loan-by-loan basis.

(f) Referral Agent means a person or entity who identifies and refers an Applicant to a lender or a lender to an Applicant. The Referral Agent may be employed and compensated by either an Applicant or

a lender.

(g) Participant means a person or entity that is participating in any of the financial, investment, or business development programs authorized by the Small Business Act or Small Business Investment Act of 1958.

#### Sec. 103.2 Who may conduct business with SBA?

(a) If you are an Applicant, a Participant, a partner of an Applicant or Participant partnership, or serve as an officer of an Applicant, Participant corporation, or limited liability company, you may conduct business with SBA without a representative.

(b) If you are an Agent, you may conduct business with SBA on behalf of an Applicant, Participant or lender, unless representation is otherwise prohibited by law or the regulations in this part or any other part in this chapter. For example, persons debarred under the SBA or Government-wide debarment regulations may not conduct business with SBA. SBA may request that any Agent supply written evidence of his or her authority to act on behalf of an Applicant, Participant, or lender as a condition of revealing any information about the Applicant's, Participant's, or lender's current or prior dealings with SBA.

#### Sec. 103.3 May SBA suspend or revoke an Agent's privilege?

The Administrator of SBA or designee may, for good cause, suspend or revoke the privilege of any Agent to conduct business with SBA. Part 134 of this chapter states the procedures for appealing the decision to suspend or revoke the privilege. The suspension or revocation remains in effect during the pendency of any administrative proceedings under part 134 of this chapter.

#### Sec. 103.4 What is "good cause" for suspension or revocation?

Any unlawful or unethical activity is good cause for suspension or revocation of the privilege to conduct business. This includes:

(a) Attempting to influence any employee of SBA or a lender, by gifts, bribes or other unlawful or unethical activity, with respect to any matter involving SBA assistance.

(b) Soliciting for the provision of services to an Applicant by another entity when there is an undisclosed business relationship between the two parties.

(c) Violating ethical guidelines which govern the profession or business of the Agent or which are published at any time by SBA.

(d) Implying or stating that the work to be performed for an Applicant will include use of political or other special influence with SBA. Examples include indicating that the entity is affiliated with or paid, endorsed or employed by SBA, advertising using the words Small Business Administration or SBA in a manner that implies SBA's endorsement or sponsorship, use of SBA's seal or symbol, and giving a "guaranty" to

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an Applicant that the application will be approved.

(e) Charging or proposing to charge any fee that does not bear a necessary and reasonable relationship to the services actually rendered or expenses actually incurred in connection with a matter before SBA or which is materially inconsistent with the provisions of an applicable compensation agreement or Lender Service Provider agreement. A fee based

solely on a percentage of a loan or guarantee amount can be reasonable, depending on the circumstances of a case and the services actually rendered.

(f) Engaging in any conduct indicating a lack of business integrity or business honesty, including debarment, criminal conviction, or civil judgment within the last seven years for fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, false statements, conspiracy, receiving stolen property, false claims, or obstruction of justice.

(g) Acting as both a Lender Service Provider or Referral Agent and a Packager for an Applicant on the same SBA business loan and receiving compensation for such activity from both the Applicant and lender. A limited exception to this "two master" prohibition exists when an Agent acts as a Packager and is compensated by the Applicant for packaging services; also acts as a Referral Agent and is compensated by the lender for those activities; discloses the referral activities to the Applicant; and discloses the packaging activities to the lender.

(h) Violating materially the terms of any compensation agreement or Lender Service Provider agreement provided for in Sec. 103.5.

(i) Violating or assisting in the violation of any SBA regulations, policies, or procedures of which the Applicant has been made aware.

Sec. 103.5 How does SBA regulate an Agent's fees and provision of service?

(a) Any Applicant, Agent, or Packager must execute and provide to SBA a compensation agreement, and any Lender Service Provider must execute and provide to SBA a Lender Service Provider agreement. Each agreement governs the compensation charged for services rendered or to be rendered to the Applicant or lender in any matter involving SBA assistance. SBA provides the form of compensation agreement and a suggested form of Lender Service Provider agreement to be used by Agents.

(b) Compensation agreements must provide that in cases where SBA deems the compensation unreasonable, the Agent or Packager must: reduce the charge to an amount SBA deems reasonable, refund any sum in excess of the amount SBA deems reasonable to the Applicant, and refrain from charging or collecting, directly or indirectly, from the Applicant an amount in excess of the amount SBA deems reasonable.

(c) Each Lender Service Provider must enter into a written agreement with each lender for whom it acts in that capacity. SBA will review all such agreements. Such agreements need not contain each and every provision found in the SBA's suggested form of agreement. However, each agreement must indicate that both parties agree not to engage in any sharing of secondary market premiums, that the services to be provided are accurately described, and that the agreement is otherwise consistent with SBA requirements. Subject to the prohibition on splitting premiums, lenders have reasonable discretion in setting compensation for Lender Service Providers. However, such compensation may not be directly charged to an Applicant or borrower.