

## § 123.602

Trade Center or the damage to the Pentagon on September 11, 2001, or as a direct result of any related federal action taken between September 11, 2001 and October 22, 2001, you are eligible to apply for an economic injury disaster loan under this subpart.

(1) Substantial economic injury is such that a business concern is unable to meet its obligations as they mature or to pay its ordinary and necessary operating expenses.

(2) Loss of anticipated profits or a drop in sales is not considered substantial economic injury for this purpose.

(b) Economic injury disaster loans are available under this subpart only if you were a small business (as defined in part 121 of this chapter) on the date SBA accepts your application for processing (and for applications submitted before March 15, 2002, whether denied or pending, such applications shall be deemed resubmitted on March 15, 2002, you and your affiliates and principal owners (20% or more ownership interest) have used all reasonable available funds, and you are unable to obtain credit elsewhere (see §123.104).

(c) Eligible businesses do not include agricultural enterprises, but do include small agricultural cooperatives and producer cooperatives.

[66 FR 53331, Oct. 22, 2001, as amended at 67 FR 11880, Mar. 15, 2002]

### **§ 123.602 When would my business not be eligible to apply for an economic injury disaster loan under this subpart?**

Your business is not eligible for an economic injury disaster loan under this subpart if you (or any principal of the business) fit into any of the categories in §§123.101 and 123.201, or if your business is:

(a) Engaged in lending, multi-level sales distribution, speculation, or investment (except for real estate investment with property held for rental on September 11, 2001);

(b) A non-profit or charitable concern;

(c) A consumer or marketing cooperative;

(d) Not a small business concern; or

(e) Deriving more than one-third of gross annual revenue from legal gambling activities;

## 13 CFR Ch. I (1-1-10 Edition)

(f) A loan packager which earns more than one-third of its gross annual revenue from packaging SBA loans;

(g) Principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting; or

(h) Primarily engaged in political or lobbying activities.

### **§ 123.603 What is the interest rate on an economic injury disaster loan under this subpart?**

Your economic injury disaster loan under this subpart will have an interest rate of 4 percent per annum or less.

### **§ 123.604 How can my business spend my economic injury disaster loan under this subpart?**

(a) You can only use the loan proceeds for working capital necessary to carry your concern until resumption of normal operations and for expenditures necessary to alleviate the specific economic injury, but not to exceed that which the business could have provided had the injury not occurred.

(b) Loan proceeds may not be used to:

(1) Refinance indebtedness which you incurred prior to September 11, 2001;

(2) Make payments on loans owned by another federal agency (including SBA) or a Small Business Investment Company licensed under the Small Business Investment Act;

(3) Pay, directly or indirectly, any obligations resulting from a federal, state or local tax penalty as a result of negligence or fraud, or any non-tax criminal fine, civil fine, or penalty for non-compliance with a law, regulation, or order of a federal, state, regional, or local agency or similar matter;

(4) Repair physical damage; or

(5) Pay dividends or other disbursements to owners, partners, officers, or stockholders, except for reasonable remuneration directly related to their performance of services for the business.

### **§ 123.605 How long do I have to apply for a loan under this subpart?**

You have until January 22, 2002 to apply for a loan under this subpart. Your application must be postmarked no later than this date. SBA has the discretion, for good cause, to extend