§ 120.172 Flood insurance.

Under the Flood Disaster Protection Act of 1973 (Sec. 205(b) of Pub. L. 93–234; 87 Stat. 983 (42 U.S.C. 4000 et seq.)), a loan recipient must obtain flood insurance if any building (including mobile homes), machinery, or equipment acquired, installed, improved, constructed, or renovated with the proceeds of SBA financial assistance is located in a special flood hazard area. The requirement applies also to any inventory (business loan program), fixtures or furnishings contained or to be contained in the building. Mobile homes on a foundation are buildings. SBA, Lenders, CDCs, and Intermediaries must notify Borrowers that flood insurance must be maintained.

§ 120.171 Compliance with child support obligations.

Any holder of 50% or more of the ownership interest in the recipient of an SBA loan must certify that he or she is not more than 60 days delinquent on any obligation to pay child support arising under:

(a) An administrative order;
(b) A court order;
(c) A repayment agreement between the holder and a custodial parent; or
(d) A repayment agreement between the holder and a State agency providing child support enforcement services.

§ 120.170 Flood-plain and wetlands management.

(a) All loans must conform to requirements of Executive Orders 11988, “Flood Plain Management” (3 CFR, 1977 Comp., p. 117) and 11990, “Protection of Wetlands” (3 CFR, 1977 Comp., p. 121). Lenders, Intermediaries, CDCs, and SBA must comply with requirements applicable to them. Applicants must show:

(1) Whether the location for which financial assistance is proposed is in a floodplain or wetland;
(2) If it is in a floodplain, that the assistance is in compliance with local land use plans; and
(3) That any necessary construction or use permits will be issued.

(b) Generally, there is an 8-step decision making process with respect to:

(1) Construction or acquisition of anything, other than a building;
(2) Repair and restoration equal to more than 50% of the market value of a building; or
(3) Replacement of destroyed structures.

(c) SBA may determine for the following types of actions, on a case-by-case basis, that the full 8-step process is not warranted and that only the first step (determining if a proposed action is in the base floodplain) need be completed:

(1) Actions located outside the base floodplain;
(2) Repairs, other than to buildings, that are less than 50% of the market value;
(3) Replacement of building contents, materials, and equipment;
§ 120.173 Lead-based paint.

If loan proceeds are for the construction or rehabilitation of a residential structure, lead-based paint may not be used on any interior surface, or on any exterior surface that is readily accessible to children under the age of seven years.

§ 120.174 Earthquake hazards.

When loan proceeds are used to construct a new building or an addition to an existing building, the construction must conform with the “National Earthquake Hazards Reduction Program (‘NEHRP’) Recommended Provisions for the Development of Seismic Regulations for New Buildings” (which can be obtained from the Federal Emergency Management Agency, Publications Office, Washington, DC) or a code identified by SBA as being substantially equivalent.

§ 120.175 Coastal barrier islands.

SBA and Intermediaries may not make or guarantee any loan within the Coastal Barrier Resource System.

§ 120.176 Compliance with other laws.

All SBA loans are subject to all applicable laws, including (without limitation) the civil rights laws (see parts 112, 113, 117 and 136 of this chapter), prohibiting discrimination on the grounds of race, color, national origin, religion, sex, marital status, disability or age. SBA requests agreements or evidence to support or document compliance with these laws, including reports required by applicable statutes or the regulations in this chapter.

APPLICABILITY AND ENFORCEABILITY OF LOAN PROGRAM REQUIREMENTS

§ 120.180 Lender and CDC compliance with Loan Program Requirements.

Lenders must comply and maintain familiarity with Loan Program Requirements for the 7(a) program, as such requirements are revised from time to time. Loan Program Requirements in effect at the time that a Lender or CDC takes an action in connection with a particular loan govern that specific action. For example, although loan closing requirements in effect when a Lender or CDC closes a loan will govern the closing actions, a Lender or CDC’s liquidation actions on the same loan are subject to the liquidation requirements in effect at the time that a liquidation action is taken.

§ 120.181 Status of Lenders and CDCs.

Lenders, CDCs and their contractors are independent contractors that are responsible for their own actions with respect to a 7(a) or 504 loan. SBA has no responsibility or liability for any claim by a borrower, guarantor or other party alleging injury as a result of any allegedly wrongful action taken by a Lender, CDC or an employee, agent, or contractor of a Lender or CDC.

LOAN APPLICATIONS

§ 120.190 Where does an applicant apply for a loan?

An applicant for a business loan should apply to:
(a) A Lender for a guaranteed or immediate participation loan;
(b) A CDC for a 504 loan;
(c) An Intermediary for a Microloan;
or
(d) SBA for a direct loan.

§ 120.191 The contents of a business loan application.

For most business loans, SBA requires that an application for a business loan contain, among other things, a description of the history and nature of the business, the amount and purpose of the loan, the collateral offered for the loan, current financial statements, historical financial statements (or tax returns if appropriate) for the past three years, IRS tax verification, and a business plan, when applicable. Personal histories and financial statements will be required from principals...