

## Small Business Administration

## § 120.347

projects. SBA shall consider such factors as quality of the product or service, technical qualifications of the applicant's management, sales projections, and financial status.

### EXPORT WORKING CAPITAL PROGRAM (EWCP)

#### § 120.340 What is the Export Working Capital Program?

Under the EWCP, SBA guarantees short-term working capital loans made by participating lenders to exporters (section 7(a)(14) of the Act). Loan maturities may be for up to three years with annual renewals. Proceeds can be used only to finance export transactions. Loans can be for single or multiple export transactions. An export transaction is the production and payment associated with a sale of goods or services to a foreign buyer. The maximum loan amount for any one EWCP loan is \$5,000,000. EWCP loans shall receive a guaranty of 90 percent, not to exceed \$4,500,000.

[61 FR 3235, Jan. 31, 1996, as amended at 76 FR 63546, Oct. 12, 2011]

#### § 120.341 Who is eligible?

In addition to the eligibility criteria applicable to all 7(a) loans, an applicant must be in business for one full year at the time of application, but not necessarily in the exporting business. SBA may waive this requirement if the applicant has sufficient export trade experience or other managerial experience.

#### § 120.342 What are eligible uses of proceeds?

Loan proceeds may be used:

- (a) To acquire inventory;
- (b) To pay the manufacturing costs of goods for export;
- (c) To purchase goods or services for export;
- (d) To support standby letters of credit;
- (e) For pre-shipment working capital; and
- (f) For post-shipment foreign accounts receivable financing.

#### § 120.343 Collateral.

A Borrower must give SBA a first security interest sufficient to cover 100

percent of the EWCP loan amount (such as insured accounts receivable or letters of credit). Collateral must be located in the United States, its territories or possessions.

#### § 120.344 Unique requirements of the EWCP.

(a) An applicant must submit cash flow projections to support the need for the loan and the ability to repay. After the loan is made, the loan recipient must submit continual progress reports.

(b) SBA does not limit the amount of extraordinary servicing fees, as referenced in § 120.221(b), under the EWCP.

(c) SBA does not prescribe the interest rates for the EWCP, but will monitor these rates for reasonableness.

### INTERNATIONAL TRADE LOANS

#### § 120.345 Policy.

Section 7(a)(16) of the Act authorizes SBA to guarantee loans to small businesses that are:

- (a) Engaged or preparing to engage in international trade; or
- (b) Adversely affected by import competition.

#### § 120.346 Eligibility.

(a) An applicant must establish that:

- (1) The loan proceeds will significantly expand an existing export market or develop new export markets; or
- (2) The applicant business is adversely affected by import competition; and
- (3) The loan will improve the applicant's competitive position.

(b) The applicant must have a business plan reasonably supporting its projected export sales.

[61 FR 3235, Jan. 31, 1996, as amended at 76 FR 63546, Oct. 12, 2011]

#### § 120.347 Use of proceeds.

The Borrower may use loan proceeds to acquire, construct, renovate, modernize, improve, or expand facilities and equipment to be used in the United States to produce goods or services involved in international trade, and to develop and penetrate foreign markets. The Borrower may also use proceeds in

## § 120.348

the refinancing of existing indebtedness that is not structured with reasonable terms and conditions, including any debt that qualifies for refinancing under 7(a) Loan Program Requirements, and to provide working capital.

[61 FR 3235, Jan. 31, 1996, as amended at 76 FR 63546, Oct. 12, 2011]

### § 120.348 Amount of guarantee.

The maximum loan amount for any one International Trade (IT) loan is \$5,000,000. IT loans may receive a maximum guaranty of 90 percent or \$4,500,000, except that the maximum guaranty amount for any working capital component of an IT loan is limited to \$4,000,000. To the extent that the Borrower has a separate EWCP loan or any other 7(a) loan for working capital, the guaranty amount for the other loan is counted against the \$4,000,000 guaranty limit for the IT loan.

[76 FR 63546, Oct. 12, 2011]

### § 120.349 Collateral.

Each IT loan must be secured either by a first lien position or first mortgage on the property or equipment financed by the IT loan or on other assets of the Borrower, except that an IT loan may be secured by a second lien position on the property or equipment financed by the IT loan or on other assets of the Borrower, if the SBA determines the second lien position provides adequate assurance of the payment of the IT loan.

[76 FR 63546, Oct. 12, 2011]

## QUALIFIED EMPLOYEE TRUSTS (ESOP)

### § 120.350 Policy.

Section 7(a)(15) of the Act authorizes SBA to guarantee a loan to a qualified employee trust ("ESOP") to:

- (a) Help finance the growth of its employer's small business; or
- (b) Purchase ownership or voting control of the employer.

### § 120.351 Definitions.

All terms specific to ESOPs have the same definition for purposes of this section as in the Internal Revenue Service (IRS) Code (title 26 of the United States Code) or regulations (26 CFR chapter I).

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

### § 120.352 Use of proceeds.

Loan proceeds may be used for two purposes.

(a) *Qualified employer securities.* A qualified employee trust may relend loan proceeds to the employer by purchasing qualified employer securities. The small business concern may use these funds for any general 7(a) purpose.

(b) *Control of employer.* A qualified employee trust may use loan proceeds to purchase a controlling interest (51 percent) in the employer. Ownership and control must vest in the trust by the time the loan is repaid.

### § 120.353 Eligibility.

SBA may assist a qualified employee trust (or equivalent trust) that meets the requirements and conditions for an ESOP prescribed in all applicable IRS, Treasury and Department of Labor (DOL) regulations. In addition, the following conditions apply:

(a) The small business must provide the funds needed by the trust to repay the loan; and

(b) The small business must provide adequate collateral.

### § 120.354 Creditworthiness.

In determining repayment ability, SBA shall not consider the personal assets of the employee-owners of the trust. SBA shall consider the earnings history and projected future earnings of the employer small business. SBA may consider the business and management experience of the employee-owners.

## VETERANS LOAN PROGRAM

### § 120.360 Which veterans are eligible?

SBA may guarantee or make direct loans to a small business 51 percent owned by one or more of the following eligible veterans:

(a) Vietnam-era veterans who served for a period of more than 180 days between August 5, 1964, and May 7, 1975, and were discharged other than dishonorably;

(b) Disabled veterans of any era with a minimum compensable disability of 30 percent; or

(c) A veteran of any era who was discharged for disability.