non-defense-related markets in favor of the loan applicant in determining the sound value of the proposed loan.

§ 120.383 Restrictions on loan processing.

Since greater risk may be associated with a loan to an applicant under this program, a Certified Lender or Preferred Lender shall not make a defense economic assistance loan under the PLP or CLP programs.

CAPLINES PROGRAM

§ 120.390 Revolving credit.

(a) CapLines finances eligible small businesses' short-term, revolving and non-revolving working-capital needs. SBA regulations governing the 7(a) loan program govern business loans made under this program. The maximum guaranteed amount and the maximum loan amount are the same under CapLines as other 7(a) loans, as stated in §120.151.

(b) CapLines proceeds can be used to finance the cyclical, recurring, or other identifiable short-term operating capital needs of small businesses. Proceeds can be used to create current assets or used to provide financing against the current assets that already exist.


BUILDERS LOAN PROGRAM

§ 120.391 What is the Builders Loan Program?

Under section 7(a)(9) of the Act, SBA may make or guarantee loans to finance small general contractors to construct or rehabilitate residential or commercial property for resale. This program provides an exception under specified conditions to the general rule against financing investment property. “Construct” and “rehabilitate” mean only work done on-site to the structure, utility connections and landscaping.

§ 120.392 Who may apply?

A construction contractor or homebuilder with a past history of profitable construction or rehabilitation projects of comparable type and size may apply. An applicant may sub-contract the work. Subcontracts in excess of $25,000 may require 100 percent payment and performance bonds.

§ 120.393 Are there special application requirements?

(a) An applicant must submit documentation from:
(1) A mortgage lender indicating that permanent mortgage money is available to qualified purchasers to buy such properties;
(2) A real estate broker indicating that a market exists for the proposed building and that it will be compatible with its neighborhood; and
(3) An architect, appraiser or engineer agreeing to make inspections and certifications to support interim disbursements.

(b) The Borrower may substitute a letter from a qualified Lender for one or more of the letters.

§ 120.394 What are the eligible uses of proceeds?

A Borrower must use the loan proceeds solely to acquire, construct or substantially rehabilitate an individual residential or commercial building for sale. “Substantial” means rehabilitation expenses of more than one-third of the purchase price or fair market value at the time of the application. A Borrower may use up to 20 percent of the proceeds to acquire land, and up to 5 percent for community improvements such as curbs and sidewalks.

§ 120.395 What is SBA’s collateral position?

SBA will require a lien on the building which must be in no less than a second position.

§ 120.396 What is the term of the loan?

The loan must not exceed sixty (60) months plus the estimated time to complete construction or rehabilitation.

§ 120.397 Are there any special restrictions?

The borrower must not use loan proceeds to purchase vacant land for possible future construction or to operate or hold rental property for future rehabilitation. SBA may allow rental of the
property only if the rental will improve the ability to sell the property. The sale must be a legitimate change of ownership.

AMERICA’S RECOVERY CAPITAL (BUSINESS STABILIZATION) LOAN PROGRAM—ARC LOAN PROGRAM

§ 120.398 America’s Recovery Capital (ARC) Loan Program.

(a) Purpose. The purpose of the ARC Loan Program is to enable SBA to guarantee certain loans to viable small businesses that are experiencing immediate financial hardship. Loans made under this loan program are referred to as ARC Loans and are subject to the requirements set forth in this Part for 7(a) loans except as noted in this section.

(b) Definitions.

(1) (i) Eligible Borrower is a small business concern as defined in Section 3 of the Small Business Act and §120.100. Eligible Borrower does not include:

(A) Ineligible small businesses as listed in §120.110; and

(B) Small business concerns with the following primary industry North American Industry Classification System (NAICS) codes:

(1) 713210 (Casinos (Except Casino Hotels));

(2) 721120 (Casino Hotels);

(3) 713290 (Other Gambling Industries);

(4) 713910 (Golf Courses and Country Clubs); and

(5) 712130 (Zoos and Botanical Gardens).

(i) Applications submitted by small business concerns with a primary industry NAICS code of 713940 (Fitness and Recreational Sports Centers) will be identified and reviewed by SBA to determine eligibility in accordance with the statutory restriction on assistance to swimming pools.

(2) Going Concern is a small business concern actively engaging in business with the expectation of indefinite continuance.

(3) Qualifying Small Business Loan is a loan previously made to an Eligible Borrower for any of the purposes set forth in §120.120 and not for any of the purposes set forth in §120.130 or 120.160(d). Qualifying Small Business Loans may include credit card obligations, capital leases for major equipment and vehicles, notes payable to vendors or suppliers, loans in the first lien position made by commercial lenders in connection with the Development Company Loan Program (504), home equity loans used to finance business operations, other loans to small businesses made without an SBA guaranty, and loans made by or with an SBA guaranty on or after February 17, 2009. Loans made or guaranteed by SBA before February 17, 2009 are not Qualifying Small Business Loans for the purposes of the ARC Loan Program. A Qualifying Small Business Loan may not be used as the basis for more than one ARC Loan but ARC Loans may be used to pay multiple Qualifying Small Business Loans.

(4) Viable small business is a small business that is a Going Concern but which is having difficulty making periodic payments of principal and interest on Qualifying Small Business Loan(s) and/or meeting operating expenses of the business although it can reasonably demonstrate its projected continued operation for a reasonable period beyond the six month period of payment assistance with an ARC Loan.

(c) Period of program. The ARC Loan Program is authorized through September 30, 2010, or until appropriated funds are exhausted, whichever is sooner.

(d) Use of proceeds. Loans made under the ARC Loan Program are for the sole purpose of making periodic payments of principal and interest, in full or in part, on up to six (6) months, on one or more existing Qualifying Small Business Loans. ARC Loan proceeds cannot be used to make payments on loans made or guaranteed by SBA prior to February 17, 2009.

(e) Loan terms.

(1) Guaranty percentage. ARC Loans are 100% guaranteed by SBA.

(2) Maximum loan size. An ARC Loan may not exceed $35,000.

(3) Interest rate. The interest rate for ARC Loans will be published by SBA in the FEDERAL REGISTER.

(4) Loan maturity. An ARC Loan may be made with a maturity of up to six and one-half years.