

## Small Business Administration

## § 120.104

metropolitan county, any such subdivision or area with a resident population under 20,000 which is designated by SBA as rural.

*SBA Lender* is a 7(a) Lender or a CDC. This term includes SBA Supervised Lenders.

*SBA Supervised Lender* is a 7(a) Lender that is either a Small Business Lending Company or a NFRL.

*Service Provider* is an entity that contracts with a Lender or CDC to perform management, marketing, legal or other services.

*Small Business Lending Company (SBLC)* is a nondepository lending institution that is SBA licensed and is authorized by SBA to only make loans pursuant to section 7(a) of the Small Business Act and loans to Intermediaries in SBA's Microloan program. SBA has imposed a moratorium on licensing new SBLCs since January 1982.

*SOPs* are SBA Standard Operating Procedures, as issued and revised by SBA from time to time. SOPs are publicly available on SBA's Web site at <http://www.sba.gov> in the online library.

[61 FR 3235, Jan. 31, 1996, as amended at 64 FR 2117, Jan. 13, 1999; 68 FR 57980, Oct. 7, 2003; 72 FR 18360, Apr. 12, 2007; 73 FR 75510, Dec. 11, 2008; 76 FR 63545, Oct. 12, 2011; 85 FR 7647, Feb. 10, 2020; 85 FR 14780, Mar. 16, 2020; 85 FR 80588, Dec. 14, 2020; 87 FR 38908, June 30, 2022]

### Subpart A—Policies Applying to All Business Loans

#### ELIGIBILITY REQUIREMENTS

#### § 120.100 What are the basic eligibility requirements for all applicants for SBA business loans?

To be eligible for an SBA business loan, a small business applicant must:

- (a) Be an operating business (except for loans to Eligible Passive Companies);
- (b) Be organized for profit;
- (c) Be located in the United States;
- (d) Be small under the size requirements of part 121 of this chapter (including affiliates). See subpart H of this part for the size standards of part 121 of this chapter which apply only to 504 loans; and
- (e) Be able to demonstrate a need for the desired credit.

#### § 120.101 Credit not available elsewhere.

SBA provides business loan assistance only to applicants for whom the desired credit is not otherwise available on reasonable terms from non-Federal, non-State, and non-local government sources. Accordingly, SBA requires the Lender or CDC to certify or otherwise show that the desired credit is unavailable to the applicant on reasonable terms and conditions from non-Federal, non-State, and non-local government sources without SBA assistance, taking into consideration factors associated with conventional lending practices, including: The business industry of the loan applicant; whether the loan applicant has been in operation two years or less; the adequacy of collateral available to secure the loan; the loan term necessary to reasonably assure repayment of the loan from actual or projected business cash flow; and any other factor relating to the particular loan application that cannot be overcome except through obtaining a Federal loan guarantee under prudent lending standards. Submission of an application to SBA by a Lender or CDC constitutes certification by the Lender or CDC that it has examined the availability of credit to the applicant, has based its certification upon that examination, and has substantiation in its file to support the certification.

[61 FR 3235, Jan. 31, 1996, as amended at 85 FR 14780, Mar. 16, 2020]

#### § 120.102 [Reserved]

#### § 120.104 Are businesses financed by SBICs eligible?

SBA may make or guarantee loans to a business financed by an SBIC if SBA's collateral position will be superior to that of the SBIC. SBA may also make or guarantee a loan to an otherwise eligible small business which temporarily is owned or controlled by an SBIC under the regulations in part 107 of this chapter. SBA neither guarantees SBIC loans nor makes loans jointly with SBICs.