



decimal. For example, if the loan amount is \$1,680,000, then the guaranty percentage would be \$1,500,000 divided by \$1,680,000, which equals 89.2857 percent, rounded down to 89.28 percent.

For loans to borrowers with existing SBA-guaranteed loans, the new loan will also have a guaranty percentage less than 90 percent when necessary to comply with the Small Business Act's limitation of no more than \$1,500,000 in guaranteed amount to one borrower (including affiliates). (Section 7(a)(2)(D)(3) of the Small Business Act provides a higher maximum guaranteed amount for certain loans used for export purposes.)

### **Prohibition on Use of Funds**

Section 1604 of the Recovery Act states that none of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. Further guidance will be issued on this subject in the near future.

For loans for these Recovery Act prohibited uses, lenders may continue to submit applications in accordance with SOP 50 10 5(A) for the maximum guaranty percentage of 75/85, depending on the loan amount, and pay all applicable fees.

### **Additional Requirement for the Increased Guaranty**

The Recovery Act requires that the Borrower meet an additional requirement for the increased guaranty:

No loan guarantee under this initiative may be made to any entity found, based on a determination by the Secretary of Homeland Security or the Attorney General, to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

Therefore, prior to first disbursement, the Lender must require the Borrower and any Operating Company to certify as follows:

**Immigration Laws** — Neither the Borrower nor Operating Company has been determined by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring an alien, recruiting an alien or referring an alien for a fee for employment in the United States, knowing that the person is an unauthorized alien.

Version 2009.2 of the 7(a) Loan Authorization, which will be available shortly, will incorporate this certification for standard 7(a), CLP, PLP and Small/Rural Lender Advantage loans. For any Pilot Loan Program loans, the lender will be responsible for adding this requirement to the lender's authorization.

This certification is in addition to the existing disclosure requirement on SBA Form 912, Statement of Personal History.

Lenders and/or borrowers may be subject to additional reporting or recordkeeping requirements in connection with loans under the Recovery Act.

### **Submission Process**

There will be no change to the submission process. E-tran submission is strongly encouraged for all loans processed under a lender's delegated authority. The provisions of the Small Business Act applicable to the 7(a) program and the regulations promulgated thereunder will continue to apply to loans with the higher guaranty percentage.

### **Expiration Date**

The increased guaranty percentage of up to 90 percent is offered in conjunction with the fee eliminations announced today. These terms will be available until the aggregate dollar amount of 7(a) loans made under this authority exhausts the funds dedicated to that purpose. We currently estimate that program level will be approximately \$8.7 billion. Depending on loan volume in the 7(a) program, SBA estimates that the increased guaranty percentage will be available through approximately December 31, 2009.

### **Additional Information**

Questions regarding this Notice should be directed to Gail Hepler, Chief 7(a) Program Branch, at (202) 205-7530 or by email at [gail.hepler@sba.gov](mailto:gail.hepler@sba.gov).

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