



SUBJECT: SBA Loans for Petroleum Marketers
ISSUE: Treasury Department Announces Increased Aid to Small Businesses
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Executive Summary: The Treasury Department announced March 16, 2009, it will commit up to \$15 billion in new funding for the federal small business guaranteed loan program. The infusion of funding is likely to help petroleum marketers obtain additional loans and lines of credit from local lenders. As part of the plan, the Small Business Administration (SBA) will temporarily raise loan guarantees to 90 percent from the current 75 percent for its 7(a) loan program.

Treasury Department Announces Increased Aid to Small Businesses

The crisis in the financial markets has resulted in a shortage of credit for most small businesses, including independent petroleum marketers. President Barack Obama signed into law the American Recovery and Reinvestment Act on February 17, 2009 (Recovery Act). Treasury Secretary Timothy Geithner announced March 16, 2009, that the SBA will immediately implement two important provisions of the Recovery Act to open up the credit market to small businesses again. Effective March 16, 2009, the SBA will temporarily guarantee 7(a) loans up to 90 percent until the end of the year or until the funds are exhausted. This increase will help provide lenders the confidence to begin lending again. Also effective March 16, 2009, the SBA will eliminate certain loan fees.

It is important to note that the SBA does not make direct loans to small businesses. Instead, the SBA guarantees loans made by private lenders. In most instances, SBA guaranteed loans are not available if the marketer has reasonable access to other financing.

SBA guaranteed loans might be preferable to direct loans because they require less capital, have lower payments terms and longer terms. Also, in some circumstances the payments can be deferred.

Marketers Must Qualify as Small Businesses

Small Business Definition: Only businesses that meet SBA's definition of "small business" are eligible for a Small Business Administration loan.

Calculating Size: To determine size, the SBA first assigns an industry classification code number according to the North American Industry Classification System (NAICS). NAICS replaced the former Standard Industrial Classification (SIC) system in 1997. The SBA assigns each industry classification code in NAICS a business size threshold limit. The size threshold may be set by the maximum number of employees or maximum revenue as determined by annual gross receipts in millions of dollars. Businesses that are within the size threshold limit are considered "small" and are eligible for SBA guaranteed loans. Businesses that exceed the SBA size thresholds are not eligible for SBA small business loans.

- **Counting Employees:** The number of employees is the average number of persons employed for each pay period over the previous 12 months. Any person on the payroll must be included as one employee regardless of the number of hours worked or temporary status.

- Counting Employees In “Affiliated” Business Concerns: When determining the size of a business, the SBA counts the employees of all affiliated concerns associated with the business. Businesses are affiliates of one another when one controls or has the power to control the other or a third party, or parties control or has the power to control both. It does not matter whether control is exercised so long as the power to control exists. SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships to determine if an affiliation exists. In areas of high unemployment, the SBA increases the 50-employee size threshold by 25 percent. Lending institutions will know whether this increase in employee threshold applies in any given area.

The following NAICS codes and SBA size thresholds apply to petroleum wholesalers, convenience store owners, and convenience store owners who sell gasoline. Businesses that fall within the 100-employee or less size standard and annual gross receipts not exceeding \$27 million dollars are eligible for SBA small business loans:

NAICS Code 424720 Petroleum Wholesalers (except Bulk Stations and Terminals):

This industry comprises establishments primarily engaged in the merchant wholesale distribution of petroleum and petroleum products (except from bulk liquid storage facilities). The small business threshold for this industry is 100 employees or fewer.

NAICS Code 445120 Convenience Stores:

This industry comprises establishments known as convenience stores or food marts (except those with fuel pumps) primarily engaged in retailing a limited line of goods that generally includes milk, bread, soda, and snacks. The small business threshold for this industry is annual gross receipts not exceeding \$27 million.

NAICS Code 447110 Gasoline Stations with Convenience Stores:

This industry comprises establishments engaged in retailing automotive fuels (e.g., diesel fuel, gasohol, gasoline) in combination with convenience store or food mart items. These establishments can either be in a convenience store (i.e., food mart) setting or a gasoline station setting. These establishments may also provide automotive repair services. The small business threshold for this industry is annual gross receipts not exceeding \$27 million.

The following NAICS codes and SBA size thresholds apply to heating oil dealers and propane marketers. Businesses that fall within the 50-employee or less size standard are eligible for SBA small business loans:

NAICS Code 454311 Heating Oil Dealers:

This industry comprises establishments primarily engaged in retailing heating oil via direct selling. The small business size threshold for this industry is 50 employees or less.

Loan Eligibility

All applicants must meet certain eligibility requirements under the SBA guaranteed loan program. The eligibility requirements are designed to be as broad as possible to accommodate the variety of small business financing needs. The following eligibility requirements must be met to qualify for an SBA loan guarantee:

- The business meets the applicable SBA business size threshold.
- The business is organized as a for-profit entity.
- The business owner lacks the internal resources (business or personal) to provide the financing themselves.

- The business owner must be a U.S. citizen or have a green card and be of good character (criminal background and credit check).

The ability to repay the loan from the cash flow of the business is a primary consideration in the SBA loan decision process but management capability, collateral, and owner's equity contribution are also important considerations. All owners with 20 percent or more are required to personally guarantee SBA loans. Certain variations of SBA's 7(a) loan program may require additional eligibility criteria (See special purpose loans section below).

Loan Amount

The SBA guarantee loan program is limited to loans of up to up to \$2 million. SBA will temporarily guarantee 90 percent of the loan.

The two million dollar limit is based on the aggregate amount of SBA loans borrowed across all programs. Any existing SBA debt is counted against the \$2 million limit for small business borrowers.

Loan Interest Rates

Interest rates are not set by the SBA but by the private lender. However, lenders may not impose an interest fee in excess of two-and-three-quarter percent above prime with an SBA guarantee.

Loan Term Length

SBA loan terms are longer than traditional private loans. Length of repayment depends on loan.

- Working Capital Loans (Line of Credit): terms extend up to ten years instead of the more common three to five year terms for a private capital loan.
- Fixed Asset Loans: (For equipment, real estate, etc.) Terms extended to 25 years instead of the 10 to 15 year term extended by private banks.

Loan Proceeds

Loan proceeds may be used to establish a new business or to assist in the operation, acquisition or expansion of an existing business. These may include (non-exclusive):

- To purchase land or buildings, to cover new construction as well as expansion or conversion of existing facilities.
- To acquire equipment, machinery, furniture, fixtures, supplies or materials.
- For long term working capital including the payment of accounts payable and/or for the purchase of inventory.
- To refinance existing business indebtedness, that is not already structured with reasonable terms and conditions.
- For short-term working capital needs including: seasonal financing, contract performance, construction financing, export production, and for financing against existing inventory and receivable under special conditions.
- To purchase an existing business.

There are certain restrictions for the use of SBA loans. SBA loans may not be used to:

- Refinance existing debt where the lender is in a position to sustain a loss and SBA would take over that loss through refinancing.
- Effect a partial change of business ownership or a change that will not benefit the business.

- Permit the reimbursements of funds owed to any owner. This includes any equity injection or injection of capital for the purposes of the businesses continuance until the loan supported by SBA is disbursed.
- Repay delinquent state or federal withholding taxes or other funds that should be held in trust or escrow.
- Finance an unsound business purpose.

Loan Types

SBA 7(a) Loans

7(a) loans are the most basic and most often used loan among SBA's business loan programs. Its name comes from section 7(a) of the Small Business Act, which authorizes the agency to provide business loans to small businesses.

All 7(a) loans are provided by lenders known as participants because they participate with SBA in the 7(a) program. Not all lenders choose to participate but most American banks do.

7(a) loans are only available on a guaranty basis. This means they are provided by lenders who choose to structure their own loans by SBA's requirements and who apply and receive a guaranty from SBA on a portion of this loan. The SBA does not fully guaranty 7(a) loans. The lender and SBA share the risk that a borrower will not be able to repay the loan in full. The guaranty is a guaranty against payment default. It does not cover imprudent decisions by the lender or misrepresentation by the borrower.

A key concept of the 7(a) guaranty loan program is that the loan actually comes from a commercial lender not the federal government. If the lender is not willing to provide the loan, the SBA cannot require them to do so. Neither can SBA make the loan by itself because the agency does not have any money to lend. Therefore, it is important that all applicants know the lender's criteria and requirements as well as the same of the SBA. To obtain positive consideration for an SBA supported loan, the applicant must be both eligible and creditworthy.

- **SBA 7(a) Special Purpose Loans**

- **CapLine Loans:** CapLine loans are a revolving or non-revolving line of credit based on the cash cycle of a business rather than cash flow.
- **Seasonal CapLine Loan:** Seasonal CapLine loans are a sub-program of the CapLine program providing lines of credit for seasonal businesses to build-up inventory. It is a line of credit, revolving or non-revolving, solely to finance seasonal increases of accounts receivables and inventory. Loan limit is two million dollars.
- **SBA ExpressLoan Program:** SBA guaranteed loan that offers fast track processing (about five days), no SBA approval or paperwork required; term loans or revolving lines of credit available up to \$350,000. SBA guarantee limit for ExpressLoans is 50 percent of the loan amount.
- **PatriotExpress Loan Program:** Designed for veterans or their widows that own 50 percent or more of a small business. Terms are the same as ExpressLoan program; however, the borrowing limit is \$500,000 of which the SBA guarantees 85 percent of the first \$150,000 and 75 percent of \$500,000.

Loan Fees

Under the Recovery Act, the SBA has temporarily eliminated fees for borrowers on SBA 7(a) loans effective March 16, 2009, through the end of 2009 or until the funds are exhausted. The fee elimination provision is retroactive to February 17, 2009 when President Obama signed the Recovery Act into law.

Loan Application Package

Even though the SBA-qualifying standards are more flexible than other types of loans, lenders will generally ask for certain information before deciding to use an SBA loan program. Generally, a business will need the following documentation to evaluate the loan request:

- **Business profile:** A document describing type of business, annual sales, number of employees, length of time in business and ownership.
- **Loan Request:** A description of how loan funds will be used. Should include purpose, amount and type of loan.
- **Loan Collateral:** Description of collateral offered to secure the loan including equity in the business, borrowed funds and available cash.

SBA loans do not require personal or business collateral in most cases but a demonstration of such collateral is required in the application process nonetheless. Principals with 20 percent or more ownership in the company may be required to provide guarantees such as liens on business and personal assets. SBA does not decline a loan for inadequate collateral.

- **Business Financial Statements:** Complete financial statements for the past three years as well as current interim financial statements.
- **Business Balance Sheets:** balance sheets from the last three fiscal year-ends.
- **Business Income Statements:** Income statements revealing business profits or losses for the last three years.
- **Business Cash Flow Projection:** Cash flow projections indicating how much cash the business expects to generate to repay the loan.
- **Accounts:** Receivables and payables in 30-day, 60-day, 90-day and past 90-day categories.
- **Personal Financial Statements:** The personal financial statements of owners, partners, officers and stockholders who own 20 percent or more interest in the business. Financial statements must list all personal assets, liabilities and monthly payments as well as personal tax returns for the past three years. The strength and accuracy of the financial statements will be the primary basis for the lending decision so be sure these statements are carefully prepared and up-to-date.

Marketers can access more detailed information by visiting these two websites:

www.sba.gov - SBA state sites list participating banks, amount of SBA loans written for the year, type of SBA loans provided and SBA account manager within each participating bank.

www.score.org - SCORE is a nonprofit association dedicated to the success of small businesses. You can locate a center near you.