

# ARC LOAN PROGRAM

#### **Program Training**

## **ARC Loan Basics**

- New, temporary, guaranteed loan program
- Deferred payment loan
- Up to \$35,000
- Proceeds used to make P&I payments on Qualifying Small Business Loans (QSBLs)
- Interest-free to borrower
- SBA pays interest to lender at WSJ Prime + 2
- No fees charged by SBA or lenders to borrowers, other than direct costs of securing and liquidating collateral
- ARC Loans available until funding runs out or September 30, 2010, whichever occurs first
- Lenders apply 7(a) program requirements to ARC loans unless different provisions are provided for in regulation and procedural guidance.

# **ARC Loan Structure**

- Disbursement Period: Up to 6 months payments of principal and/or interest on one or more QSBL
- Deferral Period: 12 months beginning after last disbursement
- Repayment Period: Five years
- Maximum Term: 6.5 years
  - Max term will be less than 6.5 years (78 months) if disbursement period is less than 6 months

#### Who Can Make ARC Loans?

#### ARC loans are made by 7(a) lenders

- SBA Lenders may make ARC loans on a delegated basis if already approved to make PLP, SBA Express, Community Express and/or Patriot Express
- Other SBA Lenders (non-delegated) may make ARC loans by submitting them to the 7(a) Loan Guarantee Processing Centers (LGPC), located in Citrus Heights, CA or Hazard, KY
- Lenders may become SBA 7(a) Lenders by working through local district offices and following existing procedures. Once approved by SBA, new 7(a) lenders may make ARC loans by submitting them to one of the 7(a) LGPCs
  - New SBA Express lenders must submit ARC Loans on a nondelegated basis

#### **Eligibility Requirements**

- ARC loan borrowers must be eligible under the basic eligibility requirements for 7(a) loans including small business size standards
- Additional Requirements:
  - Viable Small Business
  - Immediate Financial Hardship

# ARC Loan Eligibility

- Lenders screen for eligibility
- Delegated lenders make eligibility determinations and complete eligibility checklist [SBA Form 2316, Part C] and place in loan file.
- Non-delegated lenders will complete the same eligibility information and submit to 7(a) LGPC along with entire loan application and analysis

## Viable Small Business

- Established, for-profit business
- Going concern
- Difficulty making periodic payments of principal and interest on qualifying small business loans and/or meeting operating expenses

#### Viable Small Business

Small business is able to reasonably demonstrate its projected continued operations for a reasonable period beyond the ARC loan assistance by means of :

- Quarterly cash flow projections (supported by reasonable assumptions) for the two year period after the ARC Loan is made
- Projections must demonstrate that borrower can, at a minimum, meet the debt service needs and operating expenses after the ARC Loan is fully disbursed

#### **Immediate Financial Hardship**

- An immediate financial hardship is recent difficulty making periodic payments of principal and interest on loans and/or difficulty meeting operating expenses based upon current business environment
- Lender must document and borrower must certify and provide evidence of immediate financial hardship

# Examples of Immediate Financial Hardship

- Loss/Reduction of customer base (or loss/reduction of revenue of 20% or more over the preceding 12 months)
- Increase in cost of doing business of 20% or more over the preceding 12 months
- 20% or more loss/reduction of Working Capital and/or loss/reduction of short term Credit Facilities over preceding 12 months
- Decline in Gross Margin of 20% or more over the preceding 12 months
- Decline in Operating Ratios of 20% or more over the preceding 12 months
- Inability to restructure existing debts due to credit restrictions within the preceding 12 months
- Loss/Reduction of Employees
- Loss/Reduction of Major Suppliers (major suppliers out of business)

#### Ineligible Small Businesses

- Ineligible small businesses for ARC loans are the same as for 7(a) loans (13 CFR 120.110)
- In addition, for ARC Loans, the following are ineligible:
  - Prohibited NAICS Codes:
    - Casinos
    - Casino Hotels
    - Other Gambling Industries
    - Golf Courses and Country Clubs
    - Zoos and Botanical Gardens
    - Fitness and Recreational Sports Centers (May be approved by 7(a) LGPC)
  - New Start-Up Businesses (No history of operations)
  - Business Expansions
  - Previous Loss to Government

#### Use of Proceeds

#### ONLY <u>one</u> eligible use of proceeds:

# Making periodic payments of principal and interest on QSBLs

#### STATUTORY REQUIREMENT DETERMINES USE OF PROCEEDS

Section 506 (Business Stabilization Program) of the American Recovery and Reinvestment Act of 2009

<u>Purpose is stated as</u>: Shall be used to make periodic payment of principal and interest, either in full or in part, on an existing qualifying small business loan for a period of time not to exceed 6 months.

#### Use of Proceeds

One ARC loan per small business (Any request for an additional ARC loan to an affiliate of the small business <u>must be</u> submitted to 7(a) LGPC and NOT under delegated authority.)

Proceeds may pay P&I on multiple QSBLs.

#### Ineligible Use of Proceeds

- Ineligible use of proceeds includes Any purpose other than P&I payments on QSBLs. Examples of ineligible purposes:
  - Working capital to pay accounts payable, operating expenses, and taxes
  - Purpose that does not benefit the borrower
  - Payments of P&I on notes due an associate of the small business (officer, director, owner, key employee)

Qualifying Small Business Loan (QSBL):

- Existing Loan as evidenced by a signed note to a small business concern meeting 7(a) eligibility standards
- Loan must have been for an eligible use of proceeds under the 7(a) Loan Program (SOP 50 10)

- Mortgages on building owned and occupied by the small business
- Other secured and unsecured loans
- 504 first mortgages
- Capital leases (no other lease is eligible)
- Existing notes payable to vendors, suppliers, and/or utilities (accounts payable are not eligible)
- Home equity loans used to finance business
   operations
- Credit card obligations used to finance business
   operations
- Existing balloon payments with maturities within 6 month disbursement period

- QSBLs: Note with scheduled payments of principal and/or interest
- May be same institution debt and/or other institution debt
- Delegated lenders may submit an ARC Loan to pay down same institution debt through e-Tran. Provisions with regard to preference and refinancing do not apply
- SBA loans made or guaranteed on or after 2/17/09 (includes 7(a), 504 and disaster loans) <u>Caution</u>: Do not make a 7(a) loan or a 504 loan together with an ARC loan to the same borrower at the same time. A 7(a) or 504 loan can only be made to a small business that demonstrates that it will repay the loan in a timely manner from its operations.

- Lenders must consider borrowers' overall financial situation and debt burden and allocate ARC Loan proceeds in a manner designed to promote borrower's long-term viability
- Lender must document the existence of QSBL(s) and determine that the QSBL(s) are eligible for ARC proceeds

# QSBLs – Special Rules

- Business Lines of Credit
  - Two forms 6 disbursements or 1 disbursement
  - If 1 disbursement, payments on underlying LOC must be deferred for 5 months and Lender certifies structure is in best interest of borrower
  - LOC limit may not be reduced for 18 months unless underlying loan goes into non-accrual

# QSBLs – Special Rules

- Home Equity Loans and Credit Card Obligations
  - May only pay for business related portion of these obligations
  - Lender must obtain documentation for each business related purpose
  - Borrowers must certify that amounts were exclusively used for business expenses
  - Payments may not exceed the amounts documented for business purposes and interest is pro-rated

#### **Terms and Conditions**

- Maximum Size \$35,000
- 100% Guaranteed
- Interest-free to borrower
- Interest paid by SBA to lender throughout life of loan beginning with first disbursement
- Lenders may not charge default interest rates to SBA or the borrower

#### **Terms and Conditions**

- May include restructuring and deferrals of non-SBA loans as part of ARC loan transaction
- Collateral Required consistent with conventional lending practices for similar sized commercial loans (lender certification required)
  - Secured vs unsecured
  - Not having sufficient collateral to meet conventional requirements should does not make a borrower ineligible
- Fees No fees other than cost of securing and liquidating collateral
- Secondary Market No secondary market sales and/or sales of participations

#### **Terms and Conditions**

- Increases only with prior written approval of SBA; total loan may not exceed \$35,000; request must be approved by SBA and increase must be disbursed by lender within the original six month disbursement period
- Personal Guarantees required of holders of at least a 20% ownership interest
- Personal Resources Test not required

# **Terms & Conditions**

- Bankruptcy
  - Borrower is eligible <u>only if</u> discharged from bankruptcy or has a confirmed bankruptcy plan
  - Lender's analysis must demonstrate that the loan will be repaid in a timely manner from future operations

#### Disbursements

- Disbursements:
  - Directly to QSBL payee(s) (electronically or by check); and/or
  - Jointly issued checks made out to the borrower and the QSBL payee(s)
     In no instance directly to the borrower
- SBA allows a lender up to eight months from approval to complete disbursement. However, the loan must be disbursed over six consecutive months. (Procedural Guide – p.14)

# Credit Criteria

- Delegated lenders may make ARC Loans on a delegated basis if the borrower meets the following credit criteria:
  - Borrower in operation for at least 2 years
  - Annual financial statements (balance sheet & income statement) or tax returns demonstrating business is a going concern and had positive cash flow in at least one of past two years (Interim financial statements required if 90 days past borrower's fiscal year end

# Credit Criteria

- Quarterly cash flow projections for two years demonstrating sufficient cash flow to meet debt burden and operating expenses
- Borrower certification on application that it is current or nor more than 60 days past due on any QSBL being paid with the ARC Loan. (Deferred loans are not considered past due until they have been deferred for more than 3 months.)
- Borrower certification with documentation as to immediate financial hardship
- Acceptable business credit score (obtained by SBA)

#### Credit Criteria

A <u>delegated lender</u> may submit an ARC loan request under the non-delegated process to the 7(a) LGPC where the small business does not meet all the credit criteria described previously.

<u>Non-delegated lenders</u> must apply the same credit criteria and submit all loan requests (including their credit and eligibility analysis and supporting documentation) to the 7(a) LGPC where SBA makes the final credit decision and eligibility determination.

#### Application of ARC Loan Disbursements

- ARC Loan payments prioritized in following order:
  - Up to six months monthly payments of scheduled principal and/or interest payments on the Borrower's QSBLs (including scheduled balloon payments that fall within the 6 months)
  - Any remaining amount available on the loan in the sixth disbursement month, after the scheduled monthly principal and/or interest payments have been made, may be used to prepay principal on one or more QSBLs.

# Approval

- Delegated Lenders
  - Submit via E-Tran (Lender's application SBA Form 2316, Part B
  - Certify eligibility and credit criteria and submit for loan number
  - SBA obtains business credit score (Liquid Credit)
    - If loan scores within acceptable limits, loan number is provided to lender via E-Tran
    - If not within acceptable limits, loan is referred to the 7(a) LGPC for further review
  - Turnaround time: 1 business day or less
- Non-Delegated Lenders
  - Lender prepares package, applies same credit criteria and submits to 7(a) LGPC for approval including supporting analysis and documentation
  - Loan is underwritten, including a business credit score, and an approval/disapproval decision made
  - Decision communicated to lender
  - Turnaround time: 10 business days

# **Credit Score**

- Liquid Credit
- Hybrid Business Score
  - Consumer Credit Information
  - Business Credit Information
- SBA will obtain (and pay for) credit score
- High and Low Score Cut-Offs
- All borrowers must have a DUNs number to obtain a credit score
- There is a high and low "liquid credit score" cut-off that SBA has established within E-tran. If the borrower's liquid credit score (that SBA generates from the information the lender submits through E-tran) falls outside of the high or low score limits, the lender will receive a message that the application has been referred to the 7(a) Loan Guaranty Processing Center. The message will also include the fax number for the additional information that the Center requires. If the loan is referred because the credit score exceeds the limit established, Lenders must provide documentation on the financial hardship being experienced by the business.

# E-Tran

- The following slides show the additional e-Tran screens required for ARC Loans.
  - Use of Proceeds
  - Financial Hardship
  - Eligibility/Credit Criteria Certification

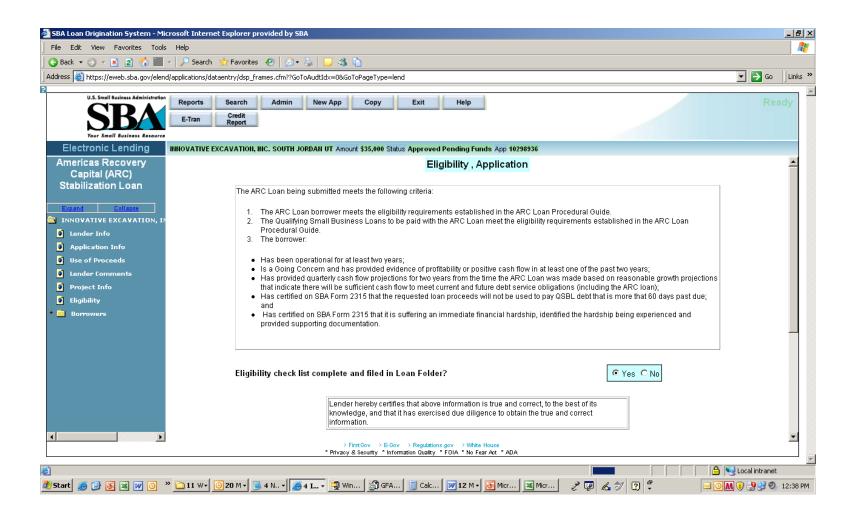
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#### E-Tran – Financial Hardship

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#### E-Tran – Eligibility/Credit Criteria



# **Interest Payments**

- Lenders calculate interest based on existing methods
- Rate of interest initially established by SBA at WSJ Prime plus 2%, adjusted on the first business day of the month based on the WSJ Prime rate in effect on that date
- Lenders bill SBA for interest payable through their 1502 report as for their 7(a) loan
- SBA conducts tests for reasonableness of interest payable
- If within established tolerance levels, interest payment made by SBA to lender
- Lender are NOT to deduct interest from fees due to SBA as part of 1502 submission
- SBA contractor will conduct reconciliations, audits, followup on lender reporting issues, and assist with overall portfolio management
- Lender agrees to make interest payment reconciling adjustments to address over and/or underpayments during life of loan

# 1502 Information

# 1502 reporting instructions for ARC Loans available on Colson Services' website at: www.colsonservices.com

# Closing

- Loan Authorization Required
- Closing conditions must be satisfied before loan disbursement
- Additional closing conditions that must be met before disbursement:
  - Schedule of ARC Loan payment disbursements required
  - IRS verification of financial information
  - Document and Agent Payments through completion of SBA Form 159
  - Determination of no Adverse Change
  - Life Insurance on key individuals
  - Hazard Insurance, Flood Insurance, & Environmental Reviews (if collateralized)
  - Child Support Payments

### Servicing Requirements

- Processes same as required for non-SBA guaranteed commercial loans
- ARC Loan deferrals allowed but loan term may not be extended. Loan must be reamortized to pay within established timelimits
- Prior, written SBA consent required:
  - Increase in ARC Loan principal amount
  - Compromise principal balance or release guarantors
  - Take title to property in SBA's name
  - Take title to environmentally contaminated property
  - Transfer or pledge of a loan
  - Deferrals beyond 6 months

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  - Increase in ARC Loan principal amount
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  - -Take title to environmentally contaminated property
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### Servicing Requirements

#### Notice to SBA Required:

- Decrease principal amount
- Cancel Ioan
- Name changes
- Address changes
- Assumption approvals
- Liquidation classification
- Deferrals of 6 months or less

### Liquidation Requirements

- Process same as required for non-SBA guaranteed commercial loans
- Liquidation
  - Lenders liquidate loans with collateral in excess of \$1,000
  - Lenders may request Treasury off-set for loans with collateral of \$1,000 or less
- Liquidation actions must be documented
- Wrap up report required upon completion of liquidation
- Application of liquidation proceeds:
  - Liquidation expenses
  - Principal balance of loan

### ARC Loan Purchases

- Not required to liquidate prior to requesting purchase
- Lenders may submit for purchase:
  - 60 days after default
  - Borrower files for bankruptcy
- SBA requires purchase no later than 120 days after earliest uncured payment default
  - No interest paid by SBA from 120 days after earliest uncured payment default
- Expedited purchase procedures to be applied
- ARC Loan purchases to be processed in Fresno and Little Rock

#### Lender Portfolio Performance

- Lenders making ARC loans will have their performance assessed consistent with 7(a) and 504 practices
- Given that a higher default rate for ARC loans is expected, some accommodation will be made in performance assessment
- Lenders may be suspended or their ability to make ARC loans revoked if a lender does not continue to meet SBA program requirements

## **Program Limitations**

- Program level
  - Approximately \$335 MM
  - ARC Loans available until funding runs out or September 30, 2010, whichever occurs first
- Lender Limits
  - Lenders may make no more than 1,000 ARC Loans in total (no guarantee of 1,000 ARC Loans; program expires when funding is fully used or September 30, 2010, whichever occurs first)
  - Lenders may only submit 50 loans per week
  - Unused amounts may accumulate up to total of 1,000
  - Limits apply to both delegated and non-delegated loans
  - SBA will evaluate weekly limits periodically, first evaluation expected in August 2009

# **SBA Contact Information**

7(a) Loan Guaranty Processing Center (Citrus Heights, CA) Voice: 916-735-1986 E-mail: <u>7aquestions@sba.gov</u>

Little Rock Servicing Center Voice: 800-644-8564 E-mail: Irsc.servicing@sba.gov

Fresno Servicing Center Voice: 800-347-0922 E-mail: fsc.servicing@sba.gov

<u>E-Tran (Washington, DC)</u> Steve Kucharski – 202-205-7551 (<u>steven.kucharski@sba.gov</u>) Glenn Hannon – 202-205-7122 (<u>glenn.hannon@sba.gov</u>) Jihoon Kim – 202-205-6024 (<u>jihoon.kim@sba.gov</u>)

### **ARC Eligibility Question Mailbox**

#### ARCLoanEQ@SBA.gov

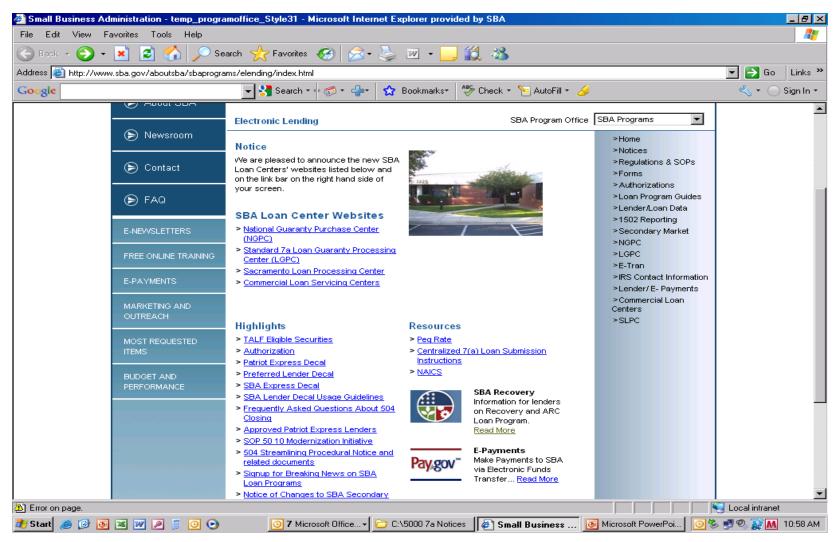
# **Comments on the Regulations**

Comments on the interim final rule on the ARC Loan program (published on June 9) and the interest that will be paid by SBA to the lender (published on June 10) may be entered on <u>www.regulations.gov</u>, then follow the instructions.

### SBA website for lenders

www.sba.gov/banking will take you to SBA's page that is set aside for lenders.

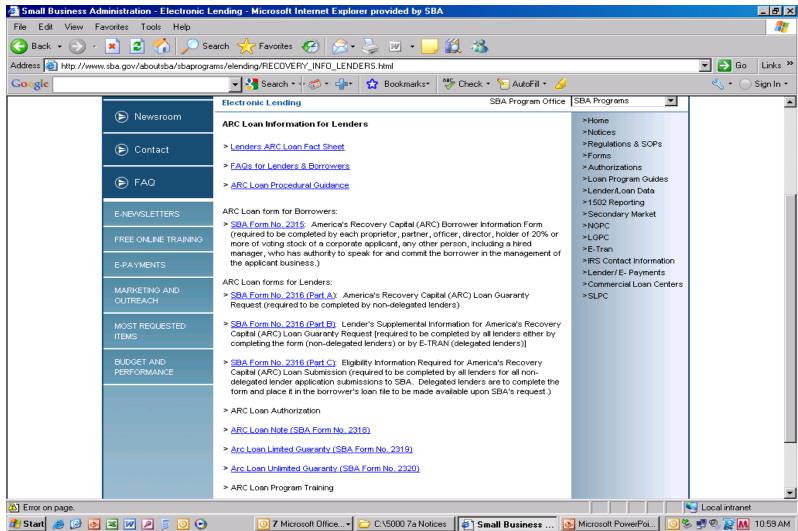
#### **SBA Web Page for Lenders**



# Special section for ARC loans

On that page you will find a special section devoted to ARC loans. The ARC loan section has hyperlinks to the required forms, note, authorization, guide and so on.

#### ARC Loan Web Page for Lenders



#### Thank You

### **Questions & Answers**