

# U.S. SMALL BUSINESS ADMINISTRATION

## APPLICATION FOR SECTION 504 LOAN

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### PART C

#### Statements Required by Laws and Executive Orders

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Federal executive agencies, including the Small Business Administration, are required to withhold or limit financial assistance, to impose special conditions on approved loans, to provide special notices to applicants or borrowers, and to require special reports and data from borrowers in order to comply with legislation passed by the Congress, by Executive Orders issued by the President and by the provisions of various inter-agency agreements. SBA has issued regulations and procedures that implement these laws and executive orders, and they are contained in Parts 112, 113, 116, and 117, and 140, Title 13 Code of Federal Regulations, Chapter 1, or Standard Operating Procedures. This form contains a brief summary of the various laws and executive orders that affect SBA's state and local development company loan programs and gives applicants and borrowers the notices required by law or otherwise.

#### **Freedom of Information Act**

(5 U.S.C. 552)

This law provides, with some exceptions, that SBA must supply information reflected in agency files and records to a person requesting it. Information about approved loans that will be automatically released includes, among other things, statistics on our loan programs (individual borrowers are not identified in the statistics) and other information such as the names of the borrowers (and their officers, stockholders or partners), the collateral pledged to secure the loan, the amount of the loan, its purpose in general terms, and the maturity. Proprietary data on a borrower would not routinely be made available to third parties. All requests under this Act are to be addressed to the nearest SBA office and must be identified as a Freedom of Information request.

#### **Right to Financial Privacy Act of 1978**

(12 U.S.C. 3401)

This is notice to you, as required by the Right to Financial Privacy Act of 1978, of SBA's access rights to financial records held by financial institutions that are, or have been, doing business with you or your business, including any financial institution participating in a loan or loan guaranty. The law provides that SBA shall have a right of access to your financial records in connection with its consideration or administration of assistance to you in the form of a Government loan or loan guaranty agreement. SBA provides a certification of its compliance with the Act to a financial institution in connection with its first request for access to your financial records, after which no further certification is required for subsequent access. The law also provides that SBA's access rights continue for the term of any approved loan or loan guaranty agreement. No further notice to you of SBA's access rights is required during the term of any such agreement. The law also authorizes SBA to transfer to another Government authority any financial records included in an application for a loan, or concerning an approved loan or loan guarantee, as necessary to process, service or foreclose on a loan or loan guaranty or to collect on a defaulted loan or loan guaranty. No other transfer of your financial records to another Government authority will be permitted by SBA except as required or permitted by law.

#### **Privacy Act of 1974 Information**

Certain information such as personal balance sheets are used to evaluate your application. Such information may be given to Federal, state or local agencies for law enforcement purpose. Omission of an item means your application might not receive full consideration.

#### **Equal Credit Opportunity Act**

(15 U.S.C. 1691)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

#### **Civil Rights Legislation**

All businesses receiving SBA financial assistance must agree not to discriminate in any business practice, including employment practices and services to the public, on the basis of categories cited in 13 C.F.R., Parts 112, 113, and 117 of SBA regulations. This includes making their goods and services available to handicapped clients or customers. All business borrowers will be required to display the "Equal Employment Opportunity Poster" prescribed by SBA.

### **Certification as to Compliance with Nondiscrimination Laws**

I give the assurance that I will comply with Sections 112, 113, and 117 of Title 13 of the Code of Federal Regulations, which prohibit discrimination on the grounds of race, color, sex, religion, marital status, handicap, age or national origin by recipients of Federal financing assistance and require appropriate reports and access to books and records. These requirements are applicable to anyone who buys or takes control of the business. I realize that if I do not comply with these nondiscrimination requirements, SBA can cancel, terminate, or accelerate repayment or suspend any or all Federal financial assistance provided by SBA.

### **Immigration Reform and Control Act of 1986**

(Pub. L. 99-603)

If you are an alien who was in this country illegally since before January 1, 1982, you may have been granted lawful temporary resident status by the United States Immigration and Naturalization Service pursuant to the Immigration Reform and Control Act of 1986 (Pub. L. 99-603). For five years from the date you are granted such status, you are not eligible for financial assistance from the SBA in the form of a loan or guaranty under Section 7(a) of the Small Business Act or Section 504 of the Small Business Investment Act unless you are disabled or a Cuban or Haitian entrant. When you sign this document, you are making the certification that the Immigration Reform and Control Act of 1986 does not apply to you, or if it does apply, more than five years have elapsed since you have been granted lawful temporary resident status pursuant to such 1986 legislation.

### **Occupational Safety and Health Act**

(15 U.S.C. 651 et seq.)

This legislation authorizes the Occupational Safety and Health Administration in the Department of Labor to require businesses to modify facilities and procedures to protect employees or pay penalty fees. In some instances the business can be forced to cease operations or be prevented from starting operations in a new facility. Therefore, in some instances SBA may require additional information from an applicant to determine whether the business will be in compliance with OSHA regulations and allowed to operate its facility after the loan is approved and disbursed.

### **Flood Disaster Protection Act**

(42 U.S.C. 4011)

Regulations have been issued by the Federal Insurance Administration (FIA) and by SBA implementing this Act and its amendments. These regulations prohibit SBA from making certain loans in an FIA designated floodplain unless Federal flood insurance is purchased as a condition of the loan. Failure to maintain the required level of flood insurance makes the applicant ineligible for any future financial assistance from SBA under any program, including disaster assistance.

### **Executive Orders -- Floodplain Management and Wetland Protection**

(42 F.R. 26951 and 42 F.R. 26961)

The SBA discourages any settlement in or development of a floodplain or a wetland. This statement is to notify all SBA loan applicants that such actions are hazardous to both life and property and should be avoided. The additional cost of flood preventive construction must be considered in addition to the possible loss of all assets and investments in future floods.

### **Executive Order 11738 -- Environmental Protection**

(38 C.F.R. 25161)

The Executive Order charges SBA with administering its loan programs in a manner that will result in effective enforcement of the Clean Air Act, the Federal Water Pollution Act and other environmental protection legislation. SBA must, therefore, impose conditions on some loans. By acknowledging receipt of this form and presenting the application, the principals of all small businesses borrowing \$100,000 or more in direct funds stipulate to the following:

- 1 That any facility used, or to be used, by the subject firm is not listed on the EPA list of violating facilities
- 2 That subject firm will comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. 7414) and Section 308 of the Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in Section 114 and Section 308 of the respective Acts, and all regulations and guidelines issued thereunder
- 3 That subject firm will notify SBA of the receipt of any communication from the Director of the Environmental Protection Agency indicating that a facility utilized, or to be utilized by subject firm is under consideration to be listed on the EPA list of violating facilities

### **Lead-Based Paint Poisoning Prevention Act**

(42 U.S.C. 4821 et seq.)

Borrowers using SBA funds for the construction or rehabilitation of a residential structure are prohibited from using lead-based paint (as defined in SBA regulations) on all interior surfaces, whether accessible or not, and exterior surfaces, such as stairs, decks, porches, railings, windows and doors, which are readily accessible to children under 7 years of age. A "residential structure" is any home, apartment, hotel, motel, orphanage, boarding school, dormitory, day care center, extended care facility, college or other school housing, hospital, group practice or community facility and all other residential or institutional structures where persons reside.

### **Agreement of Nonemployment of SBA Personnel**

I agree that if SBA approves this application, I will not for at least two years hire an employee or consult anyone who was employed by the SBA during the one year period prior to the disbursement of the debenture

### **Certification as to Payment for Financial Assistance**

I certify: I have not paid anyone connected with the Federal government for help getting this financial assistance. I also agree to report to the SBA Office of Inspector General, 409 Third Street S W, Washington, D C 20416, any Federal government employee who offers in return for any type of compensation to help get this application approved. I understand that I need not pay anybody to deal with SBA. I also understand that a Certified Development Company may charge the applicant a percentage of the loan proceeds as set forth in SBA regulations as a fee for preparing and processing the loan applications

### **Certification as to Non-relocation**

Regulations issued by SBA prohibit the making of loans that will result in significant increase of unemployment in any area of the country (13 CFR 108 3(a)). In the event that proceeds from this loan are used to provide a facility for relocation of the beneficiary small business concern (including any affiliate, subsidiary or other business entity under direct, indirect or common control), the undersigned certifies that such relocation will not significantly increase unemployment in the area of the original location

### **Debarment, Suspension, Ineligibility and Voluntary Exclusion for Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR 145

1. The prospective lower tier participant certifies, by submission of this loan application, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to the loan application

### **Certification as to Application Accuracy**

All information in this application, including exhibits, is true and complete to the best of my knowledge and is submitted to SBA so that SBA can decide whether to approve this application. I agree to pay for or reimburse SBA for the cost of any surveys, title or mortgage examinations, appraisals, etc., performed by non-SBA personnel provided that I have given my consent. Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining any loan, or substitution of security therefor, or for the purpose of influencing in any way the action of SBA, or for the purpose of obtaining money, property, or anything of value, under the Small Business Investment Act, as amended, may be punished by a fine of not more than \$5 000 or by imprisonment for not more than two years, or both, pursuant to the Federal law at 15 U S C 645

Whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a material fact by any trick, scheme or device, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or documents knowing the same to contain any false, fictitious or fraudulent statement or entry may be fined up to \$10,000 or imprisoned for up to 5 years, or both, pursuant to the Federal law at 18 U S C 1001

### **Debt Collection Act of 1982 Deficit Reduction Act of 1984**

(31 U S C 3701 et seq and other titles)

These laws require SBA to aggressively collect any loan payments which become delinquent. SBA must obtain your taxpayer identification number when you apply for a loan. If you receive a loan and do not make payments as they come due, SBA may take one or more of the following actions:

- \* Report the status of your loan(s) to credit bureaus.
- \* Hire a collection agency to collect your loan.
- \* Offset your income tax refund or other amounts due to you from the Federal Government
- \* Suspend or debar you or your company from doing business with the Federal Government
- \* Refer your loan to the Department of Justice or other attorneys for litigation.
- \* Foreclose on collateral or take other action permitted in the loan instruments
- \* Disclose the status of your loan(s) to other Federal agencies for the purpose of computer matching. Matching may be used to initiate offsets or limit your access to Federal benefits.

**CONFLICTS OF INTEREST**

No overlapping relationship exists between the small business concern, including its associates and the CDC, including its associates, or any other lender providing financing for the project that could create an appearance of a conflict of interest as defined in 13 CFR 120 102-10 or violate 13 CFR 108 4(d) No such relationships existed within six months of this application or will be permitted to exist while assistance is outstanding.

**OTHER AGREEMENTS AND CERTIFICATIONS**

I authorize disclosure of all information submitted in connection with this application to the financial institution agreeing to participate with SBA's guaranteed debenture.

I waive all claims against SBA and its consultants for any management and technical assistance that may be provided.

In consideration for assistance from the Small Business Administration, I hereby agree that I will comply with all Federal laws and regulations to the extent that they are applicable to such assistance, including conditions set forth in this application

I, my spouse, or any member of my household, or anyone who owns, manages, or directs the business or their spouses or members of their households do not work for the SBA, Small Business Advisory Council, SCORE or ACE, any Federal agency or the participating lender. If someone does, the name and address of such person and where employed is provided on an attached page

**Applicant Notifications**

I or any of the officers of my company \_\_\_\_\_ have/ \_\_\_\_\_ have not been involved in bankruptcy or insolvency proceedings If so I have attached copies of the proceedings

I or my business \_\_\_\_\_ is/ \_\_\_\_\_ is not involved in any pending lawsuits If so, I have attached a description

**Applicant's Acknowledgment**

My signature acknowledges receipt of this form, that I have read it and that I have a copy for my files. My signature represents my agreement to comply with the requirements the Small Business Administration makes in connection with the approval of my loan request and to comply, whenever applicable, with the limitations contained in this notice

(Each Proprietor, each General Partner, each Limited Partner or Stockholder owning 20% or more, and each Guarantor must sign Each person should only sign once )

If Applicant is a proprietor or partnership, sign below:

If Applicant is an L L C or corporation, sign below:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Corporate Name

By: \_\_\_\_\_ Date \_\_\_\_\_

By: \_\_\_\_\_ Date \_\_\_\_\_

Attested by: \_\_\_\_\_ (seal if required)

Additional Proprietors, Partners, Stockholders or Guarantors as required

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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Signature

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