Small Business Administration 7(a) Loan Guaranty Program

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Summary

The Small Business Administration (SBA) administers several programs to support small businesses, including loan guaranty programs designed to encourage lenders to provide loans to small businesses "that might not otherwise obtain financing on reasonable terms and conditions." The SBA's 7(a) loan guaranty program is considered the agency's flagship loan guaranty program. It is named from section 7(a) of the Small Business Act of 1953 (P.L. 83-163, as amended), which authorized the SBA to provide business loans and loan guaranties to American small businesses. In FY2009, the program guaranteed 38,307 loans amounting to about $9.2 billion.

Congressional interest in small business access to capital, in general, and the SBA's 7(a) program, in particular, has increased in recent years for three interrelated reasons. First, small businesses have reportedly found it more difficult than in the past to access capital from private lenders. Second, there is evidence to suggest that small business has led job formation during previous economic recoveries. Third, both the number of SBA 7(a) loans funded and the total amount of 7(a) loans guaranteed have declined. The combination of these three factors has led to increased concern in Congress that small businesses might be prevented from accessing sufficient capital to enable small business to assist in the economic recovery.

A number of congressional proposals would amend the SBA's 7(a) program in an effort to increase the number, and amount, of 7(a) loans. These proposals include increasing the program's current limit on the amount of the loan guaranty; increasing the maximum percentage of the guaranty; expanding the eligible uses for the loan proceeds; and continuing the temporary subsidization of 7(a) program fees and an increase in the program's loan guaranty rate to 90%. These loan modifications and subsidies were initially enacted under P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA) and have been extended by law four times. These loan modifications and fee reductions expired on May 31, 2010.

This report opens with a discussion of the rationale provided for the 7(a) program, the program's borrower and lender eligibility standards and program requirements, and program statistics, including loan volume, loss rates, use of the proceeds, borrower satisfaction and borrower demographics.

It then examines previous congressional action taken to assist small businesses gain greater access to capital, including the temporary subsidization of 7(a) program fees and an increase in the program's loan guaranty rate to 90%. It also examines issues raised concerning the SBA's administration of the 7(a) program, including the oversight of 7(a) lenders and the program's lack of outcome-based performance measures.

The report concludes with an assessment of the Obama Administration's proposals and pending legislation, which would authorize changes to the 7(a) program that are designed to enhance small business access to capital, including H.R. 3854, Small Business Financing and Investment Act of 2009; S. 2869, Small Business Job Creation and Access to Capital Act of 2009; and S.Amdt. 4407, an amendment in the nature of a substitute for H.R. 5297, the Small Business Lending Fund Act of 2010, which is currently being considered in the Senate.

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Small Business Administration Loan Guaranty Programs

The Small Business Administration (SBA) administers programs to support small businesses, including loan guaranty programs to encourage lenders to provide loans to small businesses "that might not otherwise obtain financing on reasonable terms and conditions."[1] The SBA's 7(a) loan guaranty program is considered the agency's flagship loan program.[2] It is named from section 7(a) of the Small Business Act of 1953 (P.L. 83-163, as amended), which authorizes the SBA to provide business loans to American small businesses. In FY2009, the SBA guaranteed 38,307 7(a) loans amounting to about $9.2 billion.[3]

The SBA also administers three 7(a) subprograms that offer streamlined and expedited loan procedures for particular groups of borrowers: the SBAExpress, Community Express, and Patriot Express programs (see **Appendix**).[4] Although these subprograms have their own distinguishing eligibility requirements, terms, and benefits, they are all operated under the 7(a) program's authorization.

Historically, one of the justifications presented for funding the SBA's loan guaranty programs has been that small businesses can be at a disadvantage, compared with other businesses, when trying to obtain access to sufficient capital and credit.[5] Congressional interest in small business access to capital, in general, and the SBA's 7(a) program, in particular, has increased in recent years for three interrelated reasons.

First, in recent years, small businesses have reportedly found it more difficult than in the past to access capital from private lenders. For example, senior loan officers at private lending institutions have indicated in Federal Reserve Board surveys that they have tightened small business lending standards, largely in reaction to rising loan default rates and increased numbers of noncurrent (past due) loans during the economic downturn.[6] In addition, disruptions in

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[1] U.S. Small Business Administration, *Fiscal Year 2010 Congressional Budget Justification* (Washington, DC: GPO, 2009), p. 30.

[2] U.S. Congress, House Committee on Small Business, Subcommittee on Finance and Tax, *Subcommittee Hearing on Improving the SBA's Access to Capital Programs for Our Nation's Small Business*, 110th Cong., 2nd sess., March 5, 2008, H.Hrg. 110-76 (Washington: GPO, 2008), p. 2.

[3] U.S. Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification and FY 2009 Annual Performance Report* (Washington, DC: GPO, 2010), pp. 36, 125.

[4] U.S. Small Business Administration, "Express Programs," Washington, DC, http://www.sba.gov/financialassistance/prospectivelenders/7a/ep/index.html. Note: The SBA also administers four special purpose loan guaranty programs that address particular business needs: the Community Adjustment and Investment Program (CAIP), CAPLines Program, Employee Trusts Program, and Pollution Control Program. See U.S. Small Business Administration, "Special Purpose Loans Program," Washington, DC, http://www.sba.gov/financialassistance/prospectivelenders/7a/splp/index.html.

[5] U.S. Government Accountability Office, *Small Business Administration: 7(a) Loan Program Needs Additional Performance Measures*, GAO-08-226T, November 1, 2007, pp. 3, 9-11, http://www.gao.gov/new.items/d08226t.pdf; and Veronique de Rugy, *Why the Small Business Administration's Loan Programs Should Be Abolished*, American Enterprise Institute for Public Policy Research, AEI Working Paper #126, April 13, 2006, http://www.aei.org/docLib/20060414_wp126.pdf. Note: Proponents of federal funding for the SBA's loan guarantee programs also argue that small business can promote competitive markets. See, P.L. 83-163, § 2(a), as amended; and 15 U.S.C. § 631a.

[6] Federal Reserve Board, "Senior Loan Officer Opinion Survey on Bank Lending Practices," Washington, DC, http://www.federalreserve.gov/boarddocs/SnLoanSurvey/, cited in Brian Headd, "Forum Seeks Solutions To Thaw Frozen Small Business Credit," *The Small Business Advocate*, vol. 28, no. 10 (December 2009), p. 3, (continued...)

business credit markets during 2008 and early 2009 reduced lenders' liquidity, making it more difficult for lenders to supply loans to small business. The credit market disruptions' adverse impact on lending was particularly evident early in 2009, and it remains a congressional concern.[7]

Second, some research suggests that small business has led job formation during previous economic recoveries.[8] The tightening of private lending standards and disruption of business credit markets in 2008 and early 2009 has led to increased concern in Congress that small businesses might be prevented from accessing sufficient capital from private lenders to enable small business to take on that role during the current recovery.

Third, in recent years, both the number of SBA 7(a) loans funded and the total amount of 7(a) loans have declined. The SBA provided a guaranty for 92,553 7(a) loans in FY2007, 64,514 7(a) loans in FY2008, and 38,307 7(a) loans in FY2009.[9] The SBA provided a guaranty for $14.3 billion in 7(a) loans in FY2007, $12.7 billion in 7(a) loans in FY2008, and $9.2 billion in 7(a) loans in FY2009.[10] The decline in SBA 7(a) lending, coupled with the tightening of private lending standards, has led to increased concern in Congress that small businesses might be prevented from accessing sufficient capital to enable small business to assist in the economic recovery.

Some Members have proposed to amend the SBA's 7(a) program in an effort to increase the number, and amount, of SBA 7(a) loans. As will be discussed, these proposals include increasing the program's current limit on the amount of the loan guaranty; increasing the maximum percentage of the guaranty; expanding the eligible uses for the loan proceeds; and continuing the subsidization of the program's fees, which were initially enacted on a temporary basis under P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), and expired on May 31, 2010.

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http://www.sba.gov/advo/dec09.pdf.

[7] For further analysis see CRS Report R40985, *Small Business: Access to Capital and Job Creation*, by Robert Jay Dilger and Oscar R. Gonzales.

[8] U.S. Small Business Administration, Office of Advocacy, *Small Business Economic Indicators for 2003*, August 2004, p. 3, http://www.sba.gov/advo/stats/sbei03.pdf; and Brian Headd, "Small Businesses Most Likely to Lead Economic Recovery," *The Small Business Advocate*, vol. 28, no. 6 (July 2009), pp. 1, 2, http://www.sba.gov/advo/july_09.pdf.

[9] U.S. Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification and FY 2009 Annual Performance Report* (Washington, DC: GPO, 2010), p. 125.

[10] Ibid., p. 36.

Borrower Eligibility Standards and Program Requirements

Borrower Eligibility Standards

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

- be located in the United States;
- be a for-profit operating business (except for loans to eligible passive companies);
- qualify as small under the SBA's size requirements;[11]
- demonstrate a need for the desired credit; and
- be certified by a lender that the desired credit is unavailable to the applicant on reasonable terms and conditions from non-Federal sources without SBA assistance.[12]

To qualify for an SBA 7(a) loan, applicants must be creditworthy and able to reasonably assure repayment. SBA requires lenders to consider the applicant's

- character, reputation, and credit history;
- experience and depth of management;
- strength of the business;
- past earnings, projected cash flow, and future prospects;
- ability to repay the loan with earnings from the business;
- sufficient invested equity to operate on a sound financial basis;
- potential for long-term success;
- nature and value of collateral (although inadequate collateral will not be the sole reason for denial of a loan request); and
- affiliates' effect on the applicant's repayment ability.[13]

[11] For further analysis see CRS Report R40860, *Defining Small Business: An Historical Analysis of Contemporary Issues*, by Robert Jay Dilger.

[12] 13 C.F.R. § 120.100; and 13 C.F.R. § 120.101. Note: A list of ineligible businesses, such as non-profit businesses, insurance companies, and businesses deriving more than one-third of gross annual revenue from legal gambling activities, are contained in 13 C.F.R. § 120.110.

[13] 13 C.F.R. § 120.150.

Borrower Program Requirements

Use of Proceeds

Borrowers may use 7(a) loan proceeds to establish a new business or to assist in the operation, acquisition, or expansion of an existing business. 7(a) loan proceeds may be used to

- acquire land (by purchase or lease);
- improve a site (e.g., grading, streets, parking lots, landscaping), including up to 5% for community improvements such as curbs and sidewalks;
- purchase one or more existing buildings;
- convert, expand, or renovate one or more existing buildings;
- construct one or more new buildings;
- acquire (by purchase or lease) and install fixed assets;
- purchase inventory, supplies, and raw materials;
- finance working capital; and
- refinance certain outstanding debts.[14]

Borrowers are prohibited from using 7(a) loan proceeds to

- refinance existing debt where the lender is in a position to sustain a loss and the 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 reimbursement of funds owed to any owner, including any equity injection or injection of capital for the business's continuance until the loan supported by the SBA is disbursed;
- repay delinquent state or federal withholding taxes or other funds that should be held in trust or escrow; or
- pay for a non-sound business purpose.[15]

Loan Amounts

The maximum amount for any one 7(a) loan is $2 million, with the SBA providing a guaranty of up to 85% of loans of $150,000 or less and up to 75% of loans exceeding $150,000.[16] The

[14] 13 C.F.R. § 120.120.

[15] 13 C.F.R. § 120.130; and U.S. Small Business Administration, "7(a) Program: Use of Proceeds," Washington, DC, http://www.sba.gov/financialassistance/borrowers/resources/proceeds/index.html.

[16] 13 C.F.R. § 120.210.

aggregate amount of the SBA portion of all loans to a single borrower, including the borrower's affiliates, is $1.5 million.[17]

As will be discussed, funding has been provided to temporarily increase the maximum percentage of the SBA's loan guaranty on 7(a) loans to 90%. The 90% rate expired on May 31, 2010.[18] Several bills have been introduced to increase, either on a temporary basis or permanently, the program's maximum loan guaranty percentage, with most of these bills referencing 90%. Also, several bills have been introduced to increase the maximum amount of 7(a) loans, typically to either $3 million or $5 million.

Loan Terms, Interest Rate, and Collateral

Loan Terms

7(a) loans are required to have the shortest appropriate term, depending upon the borrower's ability to repay. The maximum term is 10 years, unless the loan finances or refinances real estate or equipment with a useful life exceeding 10 years. In that case, the loan term can be up to 25 years, including extensions.[19]

Interest Rate

Lenders are allowed to charge borrowers "a reasonable fixed interest rate" or, with the SBA's approval, a variable interest rate.[20] The SBA uses a multi-step formula to determine the maximum allowable fixed interest rate and periodically publishes that rate and the maximum allowable variable interest rate in the *Federal Register*.[21]

The current (July 2010) maximum allowable fixed interest rates for 7(a) loans with maturities less than seven years are 8.13% for loans greater than $50,000, 9.13% for loans over $25,000 but not exceeding $50,000, and 10.13% for loans of $25,000 or less. The current (July 2010) maximum allowable fixed interest rates for 7(a) loans with maturities of seven years or more are 8.63% for

[17] 13 C.F.R. § 120.151.

[18] The temporary 90% guaranty does not apply to loans in excess of $1,666,666. Since SBA's exposure is capped at $1.5 million the guaranty gradually declines to 75% at the $2 million level.

[19] 13 C.F.R. § 120.212. Note: A portion of a 7(a) loan used to acquire or improve real property may have a term of 25 years plus an additional period needed to complete the construction or improvements.

[20] 13 C.F.R. § 120.213.

[21] For fixed interest rates, the SBA first calculates a fixed base rate using the 30 day London Interbank Offered Rate (LIBOR) in effect on the first business day of the month as published in a national financial newspaper published each business day, adds to that 300 basis points (3%) and the average of the 5-year and 10-year LIBOR swap rates in effect on the first business day of the month as published in a national financial newspaper published each business day. For 7(a) fixed loans with maturities of less than seven years, the SBA adds 2.25% to the fixed base rate to arrive at the maximum allowable fixed rate. For 7(a) fixed loans with maturities of seven years or longer, the SBA adds 2.75% to the fixed base rate to arrive at the maximum allowable fixed rate. Lenders may increase the maximum fixed interest rate allowed by an additional 1% if the fixed rate loan is over $25,000 but not exceeding $50,000, and by an additional 2% if the fixed rate loan is $25,000 or less. See, U.S. Small Business Administration, "Business Loan Program Maximum Allowable Fixed Rate," 74 *Federal Register* 50263, 50264, September 30, 2009.

loans greater than $50,000, 9.63% for loans over $25,000 but not exceeding $50,000, and 10.63% for loans of $25,000 or less.[22]

The 7(a) program's maximum allowable variable interest rate may be pegged to the lowest prime rate (3.25% in July 2010), the 30 day LIBOR rate plus 300 basis points (3.35% in July 2010), or the SBA optional peg rate (4.0% in July 2010).[23] The optional peg rate is a weighted average of rates the federal government pays for loans with maturities similar to the average SBA loan.[24]

Collateral

The SBA requires lenders to collateralize the loan to the maximum extent possible up to the loan amount. If business assets do not fully secure the loan, the lender must take available personal assets of the principals as collateral. Loans are considered "fully secured" if the lender has taken security interests in all available assets with a combined "liquidation value" up to the loan amount.[25]

Lender Eligibility Standards and Program Requirements

Lender Eligibility Standards

Lenders must have a continuing ability to evaluate, process, close, disburse, service, and liquidate small business loans; be open to the public for the making of such loans (and not be a financing subsidiary, engaged primarily in financing the operations of an affiliate); have continuing good character and reputation; and be supervised and examined by a state or federal regulatory authority, satisfactory to SBA. They must also maintain satisfactory performance, as determined by SBA through on-site review/examination assessments, historical performance measures (such as default rate, purchase rate, and loss rate), and loan volume to the extent that it affects performance measures.[26]

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[22] Colson Services Corp., "SBA Base Rates," New York, http://www.colsonservices.com/main/news.shtml.

[23] U.S. Small Business Administration, Richmond, Virginia Office, "Base Interest Rates for Variable Rate SBA 7(a) Loans," Richmond, Virginia, http://www.sba.gov/idc/groups/public/documents/va_do_files/va_baserateoptions.pdf.

[24] U.S. Small Business Administration, "7(a) Loan Program: Terms and Conditions," Washington, DC, http://www.sba.gov/financialassistance/borrowers/guaranteed/7alp/FINANCIAL_GLP_7A_TERMS.html.

[25] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), p. 181, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[26] 13 C.F.R. § 120.410.

Lender Program Requirements

The Application Process

Borrowers submit applications for a 7(a) business loan to private lenders. The lender reviews the application and decides if it merits a loan on its own or if it has some weaknesses which, in the lender's opinion, do not meet standard, conventional underwriting guidelines and requires additional support in the form of an SBA guaranty. The SBA guaranty assures the lender that if the borrower does not repay the loan and the lender has adhered to all applicable regulations concerning the loan, the SBA will reimburse the lender for its loss, up to the percentage of the SBA's guaranty. The small business borrowing the money remains obligated for the full amount due.[27]

If the lender determines that it is willing to provide the loan, but only with an SBA guaranty, it submits the application for approval through the mail, website, or e-mail to the Standard 7(a) Loan Guaranty Processing Center operating out of two locations: Citrus Heights, CA, and Hazard, KY.[28] This center has responsibility for processing 7(a) loan guaranty applications for lenders who do not have delegated authority to make 7(a) loans without the SBA's final approval.[29] The application must include the following documentation and forms:

- SBA Form 4, Application for Loan, which includes specific requirements for providing financial assistance to a small business located in a floodplain or a wetland, the use of lead-based paint, seismic safety of federal and federally assisted or regulated new building construction, coastal barrier protections, laws prohibiting discrimination on the grounds of race, color, national origin, religion, sex, marital status, disability or age, and rights under the Financial Privacy Act of 1978 (P.L. 95-630);
- SBA Form 4, Schedule A—Schedule of Collateral, or the lender may use their own form to list collateral and label it "Exhibit A";
- SBA Form 912, Statement of Personal History—required of all principals, officers, directors and owners of 20% or more of the small business applicant;
- 7(a) Eligibility Questionnaire;
- Personal Financial Statement, dated within 90 days of submission to the SBA, on all owners of 20% or more (including the assets of the owner's spouse and any minor children), and proposed guarantors. SBA Form 413 is available. However, lenders may use their own form;

[27] U.S. Small Business Administration, "7(a) Loan Program: How the Program Works," Washington, DC, http://www.sba.gov/financialassistance/borrowers/guaranteed/7alp/FINANCIAL_GLP_7A_WORK.html.

[28] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC, (effective October 1, 2009), pp. 213, 214, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[29] U.S. Government Accountability Office, Small Business Administration: Opportunities Exist to Build on Leadership's Efforts to Improve Agency Performance and Employee Morale, GAO-08-995, September 24, 2008, p. 3, http://www.gao.gov/new.items/d08995.pdf.

- Business Financial Statements dated within 90 days of submission to the SBA, consisting of (1) year end balance sheets for the last three years, (2) year end profit and loss statements for the last three years, (3) reconciliation of net worth, (4) interim balance sheet, (5) interim profit and loss statements, (6) affiliate and subsidiary financial statement requirements, and (7) cash flow projection—month-by-month for one year if less than three fiscal years provided and for all loans with a term of 18 months or less;
- history of the business, résumés of principals, and copy of lease, if applicable;
- detailed listing of machinery and equipment to be purchased with loan proceeds and cost quotes;
- if real estate is to be purchased with loan proceeds an appraisal, lender's environmental questionnaire, cost breakdown, and copy of purchase agreement;
- if purchasing an existing business with loan proceeds a (1) copy of buy-sell agreement, (2) pro forma balance sheet for the business being purchased as of the date of transfer, (3) copy of seller's financial statements for the last three complete fiscal years or for the number of years in business if less than three years; (4) interim statements no older than 90 days from date of submission to SBA, and (5) if seller's financial statements are not available the seller must provide an alternate source of verifying revenues;
- Equity Injection Form—explanation of type and source of applicant's equity injection;
- Franchise Form—if listed on www.franchiseregistry.com a certification of material change or certification of no change or non-material change is required. If not listed on the registry, a copy of the Franchise Agreement and Federal Trade Commission Disclosure Report of Franchisor must be submitted;
- SBA Form 159 (7a), Fee Disclosure and Compensation Agreement, must be completed for each agent compensated by the applicant or lender and retained in lender's loan file;
- a copy of Internal Revenue Service (IRS) Form 4506-T, Request for Copy of Tax Return—lender must identify the date IRS Form 4506-T was sent to IRS;
- for non-citizens, a copy of the U.S. Citizenship and Immigration Services (USCIS) Form G-845, Document Verification Request—prior to disbursement, lenders must verify the USCIS status of each alien who is required to submit USCIS documents to determine eligibility. The lender must document the findings in the loan file;
- SBA Form 1624, Certification Regarding Debarment, must be signed and dated by applicant and retained in lender's loan file;
- SBA Form 4-I, Lender's Application for Guaranty—must be completed in its entirety, including pro forma balance sheet and submitted with (1) explanation of use of proceeds and benefits of the loan, (2) lender's internal credit memorandum, (3) justification for new business, including change of ownership. For new businesses and change of ownership where historical repayment ability is not demonstrated, lender must provide a narrative addressing the business plan

and cite any areas of concern and justification to overcome them, and (4) business valuation must be supplied by lender for change of ownerships;

- SBA Form 1846, Statement Regarding Lobbying, must be signed and dated by lender; and
- SBA National 7(a) Authorization Boilerplate language on-line "wizard" must be completed.[30]

A lender participating in the SBA's Certified Lenders Program (CLP), which is designed to provide expeditious service on loan applications received from lenders who have a successful SBA lending track record and a thorough understanding of SBA policies and procedures, must submit all forms and exhibits listed above for the standard 7(a) application. CLP lenders also must submit a draft Authorization. For loan applications greater than $350,000, in addition to all of the standard 7(a) forms and exhibits, the lender must submit a copy of its written credit analysis and must discuss SBA eligibility issues.[31]

A lender participating in the SBA's Preferred Lenders Program (PLP), which is designed to streamline the procedures necessary to provide financial assistance to small businesses by delegating the final credit decision and most servicing and liquidation authority and responsibility to carefully selected PLP lenders, must complete and retain in the lender's file all forms and exhibits listed above for the Standard 7(a) application.[32] They must submit the following forms to the SBA for review: (1) a copy of page 1 of SBA Form 4, Application for Business Loan, (2) a copy of page 1 of SBA Form 4-I, Lender's Application for Guaranty or Participation (signed by two authorized officials of the lender), and (3) a copy of "Eligibility Information Required for PLP Submission." If the PLP loan is to refinance debt (not same institution debt), a fully completed business indebtedness schedule must be attached. If the PLP loan is to finance change of ownership and a business valuation is performed by the lender, a synopsis of the analysis must be submitted.[33]

[30] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), pp. 206-209, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[31] Ibid., p. 210. Note: CLP lenders are expected to perform a complete analysis of the application and, in return, SBA promises a fast loan decision. SBA still makes the final credit and eligibility decision, but by completing a credit review instead of an independently conducted analysis, SBA strives to arrive at its decision in three working days. See, U.S. Small Business Administration, "The Certified Lenders Program (CLP)," Washington DC, http://www.sba.gov/financialassistance/prospectivelenders/7a/lp/FA_PL_7ALOAN_LP_CLP.html.

[32] There were 663 lenders participating in the Preferred Lenders Program as of March 11, 2010. The number of lenders participating in the Certified Lenders Program was not available. U.S. Small Business Administration, Office of Legislative Affairs, correspondence with the author, March 11, 2010.

[33] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), pp. 206-209, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf. Note: Lenders are considered for PLP status based on their record with SBA, and must have demonstrated a proficiency in processing and servicing SBA-guaranteed loans. The SBA continues to review the submitted materials to check loan eligibility criteria. See, U.S. Small Business Administration, "The Preferred Lenders Program (PLP)," Washington, DC, http://www.sba.gov/financialassistance/prospectivelenders/7a/lp/FA_PL_7ALOAN_LP_PLP.html.

SBA Guaranty and Servicing Fees

To offset its costs, the SBA charges lenders a guaranty fee and a servicing fee for each loan approved and disbursed. Since 2005, the SBA has set these fees with the goal of achieving a zero subsidy rate, meaning that the loan guaranty program does not require annual appropriations of budget authority for new loan guaranties.[34] The guaranty fee is currently based on loan maturity and the amount of the guaranty portion of the loan. For loans with a maturity of 12 months or less, the SBA charges the lender a 0.25% guaranty fee, which the lender is required to submit with the application. The lender may charge the borrower for the fee when the loan is approved by the SBA.[35]

For loans with a maturity exceeding 12 months, the SBA charges the lender a 2% guaranty fee for the SBA guaranteed portion of loans of $150,000 or less, a 3% guaranty fee for the SBA guaranteed portion of loans exceeding $150,000 but not more than $700,000, and a 3.5% guaranty fee for the SBA guaranteed portion of loans exceeding $700,000. Loans with an SBA guaranteed portion in excess of $1 million are charged an additional 0.25% guaranty fee on the guaranteed amount in excess of $1 million.[36] The lender must pay the SBA guaranty fee within 90 days of the date of loan's approval and may charge the borrower for the fee after the lender has made the first disbursement of the loan. Lenders are permitted to retain 25% of the up-front guaranty fee on loans with a gross amount of $150,000 or less.[37]

The annual on-going servicing fee for all 7(a) loans is established by the Administration in its annual budget request to Congress. The rate is required to be the "rate necessary to reduce to zero the cost to the Administration" of making guaranties.[38] The current rate is 0.55% of the outstanding balance of the guaranteed portion of the loan.[39] The lender's annual service fee to SBA cannot be charged to the borrower.[40]

As will be discussed, $680 million has been provided to subsidize fees for the SBA's 7(a) and 504/Certified Development Company (504/CDC) loan guaranty programs and to increase the maximum percentage of the 7(a) program's loan guaranty to 90% through May 31, 2010. Several

[34] U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *Small Business Administration: Is the 7(a) Program Achieving Measurable Outcomes?*, 110th Cong., 1st sess., November 1, 2007, S.Hrg. 110-605 (Washington: GPO, 2008), p. 13; and U.S. Government Accountability Office, *Small Business Administration: Additional Guidance on Documenting Credit Elsewhere Decisions Could Improve 7(a) Program Oversight*, GAO-09-228, February 12, 2009, p. 8, http://www.gao.gov/new.items/d09228.pdf.

[35] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), pp. 160, 161, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf. Note: The fee is refundable if the loan application is withdrawn prior to SBA approval, the SBA declines to guarantee the loan, or the SBA substantially changes the loan terms and those terms are unacceptable to the lender. Also, because the SBA does not approve or decline the credit for PLP loans, PLP lenders are required to send the guaranty fee directly to the SBA Denver Finance Center within 10 business days from the date the loan number is assigned and before the lender signs the Authorization for SBA.

[36] 15 U.S.C. 636(a)(18)(a).

[37] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), p. 161, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[38] 15 U.S.C. 636(a)(23)(a).

[39] Ibid.

[40] 15 U.S.C. 636(a)(23)(b).

bills have been introduced to extend these loan modifications and fee reductions, typically through the end of calendar 2010 or FY2010.

Lender Packaging, Servicing and Other Fees

The lender may charge an applicant "reasonable fees" customary for similar lenders in the geographic area where the loan is being made for packaging and other services. The lender must advise the applicant in writing that the applicant is not required to obtain or pay for unwanted services. These fees are subject to SBA review at any time, and the lender must refund any such fee considered unreasonable by the SBA.[41]

The lender may also charge an applicant an additional fee if, subject to prior written SBA approval, all or part of a loan will have extraordinary servicing needs. The additional fee can not exceed 2% per year on the outstanding balance of the part requiring special servicing (e.g., field inspections for construction projects). The lender may also collect from the applicant necessary out-of-pocket expenses, including filing or recording fees, photocopying, delivery charges, collateral appraisals, environmental impact reports that are obtained in compliance with SBA policy, and other direct charges related to loan closing.[42] The lender is prohibited from requiring the borrower to pay any fees for goods and services, including insurance, as a condition for obtaining an SBA guaranteed loan, and from imposing on SBA loan applicants processing fees, origination fees, application fees, points, brokerage fees, bonus points, and referral or similar fees.[43]

The lender is also allowed to charge the borrower a late payment fee not to exceed 5% of the regular loan payment when the borrower is more than 10 days delinquent on its regularly scheduled payment. The lender may not charge a fee for full or partial prepayment of a loan.[44]

For loans with a maturity of 15 years or longer, the borrower must pay to the SBA a subsidy recoupment fee when the borrower voluntarily prepays 25% or more of its loan in any one year during the first three years after first disbursement. The fee is 5% of the prepayment amount during the first year, 3% the second year, and 1% in the third year.[45]

[41] 13 C.F.R. § 120.221.

[42] Ibid; and U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), pp. 166, 167, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[43] 13 C.F.R. § 120.222. Note: A commitment fee may be charged for a loan made under the Export Working Capital Loan Program.

[44] 13 C.F.R. § 120.221; and U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), p. 167, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[45] 13 C.F.R. § 120.223; and U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), p. 167, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

Program Statistics

Loan Volume

As mentioned previously, in recent years both the number of SBA 7(a) loans funded and the total amount of 7(a) loans have declined. The SBA provided a guaranty for 92,553 7(a) loans in FY2007, 64,514 7(a) loans in FY2008, and 38,307 7(a) loans in FY2009.[46] The SBA provided a guaranty for $14.3 billion in 7(a) loans in FY2007, $12.7 billion in 7(a) loans in FY2008, and $9.2 billion in 7(a) loans in FY2009.[47] The SBA's goal for FY2011 is "to support a [7(a)] program level of $17.5 billion, which includes $16 billion in term loans and $1.5 billion in revolving line of credit facilities."[48]

Loss Rate

Since its inception in 1953, the SBA has experienced a 5.83% loss rate (ratio of actual losses to disbursements) on its general business loans.[49] In FY2010, the SBA has reported that it is recording a record $4.5 billion upward re-estimate in its subsidy costs for its loan guaranty programs.[50] The Obama Administration has indicated that projected economic conditions and higher anticipated defaults will double the estimated cost of new 7(a) loan guaranties in FY2011 compared with FY2010. The Administration has announced that it "will submit a legislative package to provide SBA the flexibility to adjust fees in the 7(a) program to enable it to be self-sustaining over time" and that "these changes in the program's fee structure would become effective for loans originated in FY 2012."[51]

Use of Proceeds and Borrower Satisfaction

In 2008, the Urban Institute released the results of an SBA-commissioned study of the SBA's loan guaranty programs. As part of its analysis, the Urban Institute surveyed a random sample of SBA loan guaranty borrowers. The survey indicated that borrowers used 7(a) loan proceeds to

- purchase or install new equipment (34%);
- finance working capital (23%);

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[46] U.S. Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification and FY 2009 Annual Performance Report* (Washington, DC: GPO, 2010), p. 125.

[47] Ibid., p. 36.

[48] Ibid., p. 3.

[49] U.S. Small Business Administration, *FY 2008 Small Business Administration (SBA) Loss Report* (Washington, DC: GPO, 2009), p. 7, http://www.sba.gov/idc/groups/public/documents/sba_program_office/cfo_2008_loss_report.pdf. Note: General business loans include loans in the SBA's 7(a), 8(A), FIS 8a, Economic Opportunity, Small Business Energy, Handicap Assistance, Veterans, Pollution Control, Import Export, Foreign Trade, USCAIP (NAFTA) and Reconstruction Finance Corporation Business programs.

[50] U.S. Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification and FY 2009 Annual Performance Report* (Washington, DC: GPO, 2010), p. 3.

[51] U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2011: Appendix* (Washington, DC: GPO, 2010), p. 1201, http://www.whitehouse.gov/omb/budget/fy2011/assets/appendix.pdf.

- acquire original business (21%);
- other (19%);
- expand or renovate current building (14%);
- purchase new building (10%);
- refinance existing debt (8%);
- hire additional staff (6%);
- build new building (4%);
- purchase new land (3%); and
- improve land (2%).[52]

The Urban Institute also reported that most of the 7(a) borrowers responding to their survey rated their overall satisfaction with their 7(a) loan and loan terms as either excellent (18%) or good (50%). One out of every five 7(a) borrowers (20%) rated their overall satisfaction with their 7(a) loan and loan terms as fair, and 6% rated their overall satisfaction with their 7(a) loan and loan terms as poor (7% reported don't know or did not respond).[53] In addition, 90% of the survey's respondents reported that the 7(a) loan was either very important (62%) or somewhat important (28%) to their business success (2% reported somewhat unimportant, 3% reported very unimportant, and 4% reported don't know or did not respond).[54]

Borrower Demographics

The Urban Institute found that about 9.9% of conventional small business loans are issued to minority-owned small businesses and about 16% of conventional small business loans are issued to women-owned businesses.[55] In FY2009, 31% of 7(a) loan recipients were minority-owned businesses (16% Asian, 10% African-American, 4% Hispanic, and 1% other minority) and 16% were women-owned businesses.[56] Based on its comparative analysis of conventional small business loans and the SBA's loan guaranty programs, the Urban Institute concluded:

> SBA's loan programs are designed to enable private lenders to make loans to creditworthy borrowers who would otherwise not be able to qualify for a loan. As a result, there should be differences in the types of borrowers and loan terms associated with SBA-guaranteed and conventional small business loans.

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[52] Christopher Hayes, *An Assessment of Small Business Administration Loan and Investment Performance: Survey of Assisted Businesses* (Washington, DC: The Urban Institute, 2008), p. 3, http://www.urban.org/UploadedPDF/411599_assisted_business_survey.pdf. Note: The percentage total exceeds 100 because recipients were allowed to name more than one use for the loan proceeds.

[53] Ibid., p. 5.

[54] Ibid.

[55] Kenneth Temkin, Brett Theodos, with Kerstin Gentsch, *Competitive and Special Competitive Opportunity Gap Analysis of the 7(A) and 504 Programs* (Washington, DC: The Urban Institute, 2008), p. 13, http://www.urban.org/UploadedPDF/411596_504_gap_analysis.pdf.

[56] U.S. Small Business Administration, "Business Loan Approval (Gross $) Ytd Activity," Washington, DC, March 27, 2010, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_fa_weekly_lending_report.pdf.

> Our comparative analysis shows such differences. Overall, loans under the 7(a) and 504 programs were more likely to be made to minority-owned, women-owned, and start-up businesses (firms that have historically faced capital gaps) as compared to conventional small business loans. Moreover, the average amounts for loans made under the 7(a) and 504 programs to these types of firms were substantially greater than conventional small business loans to such firms. These findings suggest that the 7(a) and 504 programs are being used by lenders in a manner that is consistent with SBA's objective of making credit available to firms that face a capital opportunity gap.[57]

Congressional Issues

Access to Capital

As mentioned previously, some research suggests that small business has led job formation during previous economic recoveries. However, in recent years, private lenders have tightened lending standards, making it more difficult for small businesses to access capital. Moreover, in recent years, both the number of SBA 7(a) loans funded and the total amount of 7(a) loans have declined. The decline in the demand for SBA 7(a) lending, coupled with the tightening of the supply of credit due to the tightening of lending standards, has led to increased concern in Congress that small businesses might be prevented from accessing sufficient capital to enable them to led job formation during the current economic recovery.

Congress has adopted legislation designed to increase the supply and demand for capital for both large and small businesses.[58] For example, in an effort to increase the supply of capital, Congress adopted P.L. 110-343, the Emergency Economic Stabilization Act of 2008, which authorized the Troubled Asset Relief Program (TARP). Under TARP, the U. S. Department of the Treasury is authorized to purchase or insure up to $700 billion in troubled assets, including small business loans, from banks and other financial institutions. The law's intent is "to restore liquidity and stability to the financial system of the United States."[59]

The Federal Reserve Bank of New York used its authority under section 13(3) of the Federal Reserve Act to create the Term Asset-Backed Securities Loan Facility (TALF) to "support economic activity by facilitating renewed issuance of consumer and business ABS [asset-backed securities]."[60] TALF, which became operative on March 3, 2009, is designed to help market participants meet the credit needs of households and small businesses by lending up to $200 billion to eligible owners of certain AAA-rated ABS backed by newly and recently originated auto loans, credit card loans, student loans, and SBA-guaranteed small business loans.[61] TALF

[57] Kenneth Temkin, Brett Theodos, with Kerstin Gentsch, *Competitive and Special Competitive Opportunity Gap Analysis of the 7(A) and 504 Programs* (Washington, DC: The Urban Institute, 2008), p. 21, http://www.urban.org/UploadedPDF/411596_504_gap_analysis.pdf.

[58] For further analysis see CRS Report R40985, *Small Business: Access to Capital and Job Creation*, by Robert Jay Dilger and Oscar R. Gonzales.

[59] P.L. 110-343, the Emergency Economic Stabilization Act of 2008.

[60] Federal Reserve Bank of New York, "Creation of the Term Asset-Backed Securities Loan Facility (TALF)," press release, November 25, 2008, http://www.federalreserve.gov/newsevents/press/monetary/20081125a.htm.

[61] Federal Reserve Bank of New York, "Term Asset-Backed Securities Loan Facility: Terms and Conditions," http://www.newyorkfed.org/markets/talf_terms.html; Federal Reserve Bank of New York, "New York Fed releases revised TALF Master Loan and Security Agreement and appendices," press release, http://www.federalreserve.gov/
(continued...)

ceased issuing new consumer, non-mortgage-backed ABS in March 2010, and will cease issuing new commercial mortgage-backed securities on June 30, 2010.

In an effort to encourage both lenders and small businesses to utilize the SBA's loan guaranty programs, Congress adopted ARRA, which provided an additional $730 million for SBA programs, including $375 million to reduce fees in the SBA's 7(a) and 504/CDC loan guaranty programs and increase the 7(a) program's maximum percentage of guaranty from up to 85% of loans of $150,000 or less and up to 75% of loans exceeding $150,000 to 90% for all 7(a) loans.[62] ARRA's funding for the 7(a) program was exhausted in November 2009. ARRA's funding for the 504/CDC program was about to be exhausted in December 2009 when Congress adopted legislation to extend the fee reductions and loan modifications.

Congress has provided $305 million in additional funding to extend ARRA's fee reductions for the SBA's 7(a) and 504/CDC programs and 90% loan guarantee limit for the SBA's 7(a) program. The latest extension expired on May 31, 2010. Congress is currently considering legislation to extend those fee reductions and loan modifications. For example, the Senate adopted H.R. 4213, the American Workers, State, and Business Relief Act of 2010, on March 10, 2010, by a 62-36 vote. It would provide $560 million to extend the fee reductions and 90% loan guarantee limit through December 31, 2010. The House approved an amended version of the bill, renamed the American Jobs and Closing Tax Loopholes Act of 2010, on May 28, 2010, by a 245-171 vote. It would provide $505 million to extend the fee reductions and 90% loan guarantee limit through December 31, 2010. In addition, S.Amdt. 4407, an amendment in the nature of a substitute for H.R. 5297, the Small Business Lending Fund Act of 2010, was introduced on June 29, 2010, and is currently under consideration in the Senate. It would extend the fee reductions and 90% loan guarantee limit through December 31, 2010.[63]

The Obama Administration has argued that TARP, TALF, and additional funding for the SBA's loan guaranty programs have helped to improve the small business lending environment and has supported "the retention and creation of hundreds of thousands of jobs."[64] Critics argue that small business tax reduction, reform of financial credit market regulation, and federal fiscal restraint are the best means to assist small business economic growth and job creation.[65]

Program Administration

The SBA's Office of Inspector General (OIG) and the U.S. Government Accountability Office (GAO) have independently reviewed the SBA's administration of the agency's loan guaranty

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newsevents/press/monetary/20090303a.htm; and U.S. Department of the Treasury, *Troubled Assets Relief Program Monthly 105(a) Report – January 2010*, February 16, 2010, p. 11, http://www.financialstability.gov/docs/105CongressionalReports/January%20105(a)_2-16-10.pdf.

[62] P.L. 111-5, the American Recovery and Reinvestment Act of 2009.

[63] Senator Harry Reid, "SA 4407," *Congressional Record*, daily edition, vol. 156, part 99 (June 29, 2010), p. S5596.

[64] U.S. Small Business Administration, "Administration Announces New Small Business Commercial Real Estate and Working Capital Programs," Washington, DC, February 5, 2010, http://www.sba.gov/idc/groups/public/documents/sba_homepage/sba_rcvry_factsheet_cre_refi.pdf.

[65] Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, 2009, http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/; and NFIB, "Government Spending," Washington, DC, http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/.

programs. Both agencies have reported deficiencies in the SBA's administration of its loan guaranty programs that they argue need to be addressed, including issues involving the oversight of 7(a) lenders and the lack of outcome-based performance measures.

Oversight of 7(a) Lenders

The SBA's OIG has argued that the SBA's 7(a) loan guaranty program "is vulnerable to fraud and unnecessary losses because it relies on numerous third parties (e.g., borrowers, loan agents, and lenders)" to complete loan transactions for about 80% of the loans guaranteed annually by the SBA.[66] It has argued that the SBA needs to strengthen oversight of 7(a) lenders to "establish more robust controls to prevent waste, fraud, abuse, and inefficiencies."[67]

The SBA OIG has argued that the results of its review of the 7(a) program's FY2008 lending indicate the need for strengthened lender oversight. The SBA OIG found that the SBA's estimate of improper payments for FY2008 significantly understated the level of erroneous payments in the program. The SBA reported that improper payments were 0.53% of FY2008 program outlays, whereas the SBA's OIG estimated the improper payment rate to be 29% (approximately $248 million) of the $869 million in loan guaranties purchased between April 1, 2007, and March 31, 2008.[68] In addition, the SBA OIG's review of a sample of 30 7(a) loans issued in FY2008 found that 14 of the loans lacked evidence to support lender compliance with SBA origination, servicing, or liquidation requirements, resulting in improper payments totaling $723,293. In contrast, the SBA reported improper payments of $4,468 on two of the sampled loans.[69]

In 2009, GAO also recommended that the SBA strengthen its oversight of 7(a) program lenders. GAO argued that although the SBA's "lender risk rating system has enabled the agency to conduct some off-site monitoring of lenders, the agency does not use the system to target lenders for on-site reviews or to inform the scope of the reviews."[70] It also noted that

> the SBA targets for review those lenders with the largest SBA-guaranteed loan portfolios. As a result of this approach, 97 percent of the lenders that SBA's risk rating system identified as high risk in 2008 were not reviewed. Further, GAO found that the scope of the on-site reviews that SBA performs is not informed by the lenders' risk ratings, and the reviews do not include an assessment of lenders' credit decisions.[71]

GAO argued that although the SBA "has made improvements to its off-site monitoring of lenders, the agency will not be able to substantially improve its lender oversight efforts unless it improves its on-site review process."[72]

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[66] U.S. Small Business Administration, Office of Inspector General, "Semiannual Report to Congress, Fall 2009," Washington, DC, p. 5, http://www.sba.gov/idc/groups/public/documents/sba/oig_fall2009sar.pdf.

[67] Ibid., p. 3.

[68] Ibid., p. 5.

[69] Ibid.

[70] U.S. Government Accountability Office, *Small Business Administration: Actions Needed to Improve the Usefulness of the Agency's Lender Risk Rating System*, GAO-1—53, November 6, 2009, p. i, http://www.gao.gov/new.items/d1053.pdf.

[71] Ibid., pp. i, 27-30.

[72] Ibid., p. 35.

In a separate report concerning the SBA's administration of the 7(a) program, GAO also argued in 2009 that the SBA needs to "improve its oversight of lenders' compliance with the credit elsewhere requirement."[73] The Small Business Act specifies that "no financial assistance shall be extended pursuant to this subsection if the applicant can obtain credit elsewhere."[74] The SBA provides lenders the following six reasons for certifying in its application that the borrower meets the credit elsewhere requirement:

- the business needs a longer maturity than the lender's policy permits (for example, the business needs a loan that is not on a demand basis);
- the requested loan exceeds either the lender's legal lending limit or policy limit regarding the amount that it can lend to one customer;
- the lender's liquidity depends upon selling the guaranteed portion of the loan on the secondary market;
- the collateral does not meet the lender's policy requirements;
- the lender's policy normally does not allow loans to new businesses or businesses in the applicant's industry; and/or
- any other factors relating to the credit that, in the lender's opinion, cannot be overcome except for the guaranty. These other factors must be specifically documented in the loan file.[75]

GAO argued that "SBA's guidance to lenders on documenting compliance with the credit elsewhere requirement is limited" because it "does not specify the amount of detail lenders should include in their explanations."[76] GAO noted that "even with the lack of detail required," the SBA's own on-site reviews of 7(a) lenders over a recent six-quarter period indicated that nearly a third of the lenders reviewed had not consistently documented that borrowers met the credit elsewhere requirement.[77]

The SBA has argued that it currently "conducts a continuous risk-based, off-site analysis of lending partners through the Loan/Lender Monitoring System (L/LMS), a state-of-the-art portfolio monitoring system that incorporates credit scoring metrics for portfolio management purposes."[78] According to the SBA:

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[73] U.S. Government Accountability Office, Small Business Administration: Additional Guidance on Documenting Credit Elsewhere Decisions Could Improve 7(a) Program Oversight , GAO-09-228, February 12, 2009, p. 3, http://www.gao.gov/new.items/d09228.pdf.

[74] 15 U.S.C. 636(a)(1)(A). Note: The act defines credit elsewhere as "the availability of credit from non-Federal sources on reasonable terms and conditions taking into consideration the prevailing rates and terms in the community in or near where the concern transacts business, or the homeowner resides, for similar purposes and periods of time." See 15 U.S.C. 632(h).

[75] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC (effective October 1, 2009), p. 96, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[76] U.S. Government Accountability Office, Small Business Administration: Additional Guidance on Documenting Credit Elsewhere Decisions Could Improve 7(a) Program Oversight , GAO-09-228, February 12, 2009, pp. 25, 26, http://www.gao.gov/new.items/d09228.pdf.

[77] Ibid., p. 26.

[78] U.S. Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification and FY 2009 Annual Performance Report* (Washington, DC: GPO, 2010), p. 6.

> The Loan/Lender Monitoring System focuses on 7(a) lenders, certified development companies and microloan intermediaries that pose the most risk to the SBA. In addition to overseeing lenders, the L/LMS provides policy, portfolio and program analysis. The Office of Credit Risk Management (OCRM) is divided into four teams: large lender oversight, small lender oversight, lender transaction, and program and policy analysis. The differentiation of lender oversight by lender size reflects the different forms of oversight needed for large lenders versus small lenders.[79]

The SBA asserts that

> The OCRM is continually enhancing and updating oversight programs and practices to provide a more robust and responsive system. Enhancements include: (1) better integration of delegated lending decisions into oversight practices; (2) addition of different types of lender reviews (targeted, desk, agreed upon procedures, etc.) to provide more options to obtain information in the most timely and efficient manner possible; (3) assessment of current on-site review practices to customize them based on risk factors and consider credit decisions made by lenders; (4) development of a lender certification program (particularly for community lenders); (5) quarterly reporting for non-bank lenders; (6) identification/ monitoring of risk related red flags and triggers; and (7) training for OCA staff, district office staff and lenders in the new process.[80]

Nonetheless, the SBA has acknowledged a need to strengthen its oversight of 7(a) lenders. It requested an additional $2 million in its FY2011 budget request to Congress to "strengthen lender oversight—including on-site reviews (consistent with Government Accountability Office recommendations)—to help ensure that SBA's lending partners are exhibiting accountable and responsible practices in issuing and managing SBA loans."[81]

Outcome-Oriented Performance Measures

GAO has argued that the SBA's 7(a) performance measures (e.g., number of loans approved, loans funded, and firms assisted across the subgroups of small businesses) provide limited information about the impact of the loans on participating small businesses:

> The program's performance measures focus on indicators that are primarily output measures – for instance, they report on the number of loans approved and funded. But none of the measures looks at how well firms do after receiving 7(a) loans, so no information is available on outcomes. As a result, the current measures do not indicate how well the agency is meeting its strategic goal of helping small businesses succeed.[82]

The SBA OIG has made a similar argument concerning the SBA's Microloan program's performance measures. Because the SBA uses similar program performance measures for its Microloan and 7(a) programs, the SBA OIG's recommendations could also be applied to the SBA's 7(a) program.

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[79] Ibid., p. 43.

[80] Ibid.

[81] Ibid.

[82] U.S. Government Accountability Office, *Small Business Administration: 7(a) Loan Program Needs Additional Performance Measures*, GAO-08-226T, November 1, 2007, p. 2, http://www.gao.gov/new.items/d08226t.pdf.

Specifically, as part of its audit of the SBA Microloan program's use of ARRA funds, the SBA OIG found that the SBA's performance measures for the Microloan program are based on the number of microloans funded, the number of small businesses assisted, and program's loan loss rate. It argued that these "performance metrics ... do not ensure the ultimate program beneficiaries, the microloan borrowers, are truly assisted by the program" and "without appropriate metrics, SBA cannot ensure the Microloan program is meeting policy goals."[83] It noted that the SBA does not track the number of microloan borrowers who remain in business after receiving a microloan to measure the extent to which the loans contributed to the success of borrowers and does not determine the effect that technical training assistance may have on the success of microloan borrowers and their ability to repay loans.[84] It recommended that the SBA "develop additional performance metrics to measure the program's achievement in assisting microloan borrowers in establishing and maintaining successful small businesses."[85]

In its response to GAO's recommendation to develop additional performance measures for the 7(a) program, the SBA indicated that there are legal constraints and cost considerations associated with tracking the success or failure of SBA borrowers and that it had, at that time, "a new administrator who may make changes to the agency's performance measures and goals."[86] In response to the SBA OIG's recommendation to develop additional performance metrics for the Microloan program, the SBA reported that it has "contracted with the Aspen Institute to advise on appropriate program and performance metrics for both microloans and technical assistance grants."[87] It also indicated that the program metrics developed will be used to assist the agency in measuring the Microloan program's effectiveness. Given that the Microloan program and 7(a) program use similar performance measures, it could be argued that the program metrics developed for the Microloan program may be applied to the 7(a) program as well.

Presidential Proposals and Pending Legislation

President Obama has announced several proposals, and Congress is considering several bills, that would affect the SBA's 7(a) loan guaranty program. As will be discussed, these proposals and bills include provisions that would increase the program's current limit on the amount of the loan guaranty, increase the maximum percentage of the guaranty, expand eligible uses for the loan's proceeds, and continue the subsidization of the program's fees that were initially enacted on a temporary basis under ARRA and expired on May 31, 2010.

[83] U.S. Small Business Administration, Office of the Inspector General, *SBA's Administration of the Microloan Program under the Recovery Act*, Washington, DC, December 28, 2009, p. 6, http://www.sba.gov/idc/groups/public/documents/sba_homepage/oig_reptbydate_rom10-10.pdf.

[84] Ibid.

[85] Ibid., p. 7.

[86] U.S. Government Accountability Office, *Small Business Administration: 7(a) Loan Program Needs Additional Performance Measures*, GAO-08-226T, November 1, 2007, p. 8, http://www.gao.gov/new.items/d08226t.pdf.

[87] U.S. Small Business Administration, Office of the Inspector General, *SBA's Administration of the Microloan Program under the Recovery Act*, Washington, DC, December 28, 2009, p. 9, http://www.sba.gov/idc/groups/public/documents/sba_homepage/oig_reptbydate_rom10-10.pdf.

The Obama Administration's Proposals

Congress has approved legislation providing $680 million to temporarily subsidize fees for the SBA's 7(a) and 504/CDC loan guaranty programs and to increase the maximum percentage of the SBA's loan guaranty on 7(a) loans to 90% ($375 million in ARRA funding and $305 million in additional funding). The latest extension was authorized by P.L. 111-157, the Continuing Extension Act of 2010. It provided $80 million to extend those fee reductions and loan modifications through May 31, 2010. As mentioned previously, Congress is currently considering several bills that would extend the fee reductions and 90% loan guarantee limit, typically through either the end of FY2010 or through December 31, 2010. The Obama Administration has advocated a continuation of these fee reductions and increase in the 7(a) program's loan guaranty to 90%. Its most recent public statement on the issue advocated an extension through the end of FY2010.[88]

In an effort to make the SBA's loan guaranty programs more attractive to small businesses, the Obama Administration has also proposed the following modifications to several SBA programs, including the 7(a) program:

- increase the maximum loan size for standard 7(a) loans from $2 million to $5 million;
- increase the maximum loan size for the 504/CDC program from $2 million to $5 million for regular projects and from $4 million to $5.5 million for manufacturing projects;
- increase the maximum loan size for microloans to small business concerns from $35,000 to $50,000;
- increase the maximum loan limits for lenders in their first year of participation in the Microloan program, from $750,000 to $1 million, and from $3.5 million to $5 million in the subsequent years;
- temporarily increase the cap on SBAExpress loans from $350,000 to $1 million; and
- temporarily allow in FY2010 and FY2011, with an option to extend into FY2012, the refinancing of owner-occupied commercial real estate loans within one year of maturity under the SBA's 504/CDC program.[89]

Arguments for Increasing the SBA's Maximum Loan Limits

The Obama Administration has argued that increasing the maximum loan limits for the 7(a), 504/CDC, Microloan, and SBAExpress programs will allow the SBA to "support larger projects" which will "allow the SBA to help America's small businesses drive long-term economic growth and the creation of jobs in communities across the country."[90] The Administration has also argued

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[88] U.S. Small Business Administration, "Administration Announces New Small Business Commercial Real Estate and Working Capital Programs," Washington, DC, February 5, 2010, http://www.sba.gov/idc/groups/public/documents/sba_homepage/sba_rcvry_factsheet_cre_refi.pdf.

[89] Ibid.

[90] U.S. Small Business Administration, "Administration Announces New Small Business Commercial Real Estate and Working Capital Programs," Washington, DC, February 5, 2010, http://www.sba.gov/idc/groups/public/documents/ (continued...)

that increasing the maximum loan limits for these programs will be "budget neutral" over the long run and "help improve the availability of smaller loans."[91]

Arguments Against Increasing the SBA's Maximum Loan Limits

Critics of the Obama Administration's proposals to increase the SBA's maximum loan limits argue that it might increase the risk of defaults, resulting in higher guaranty fees or the need to provide the SBA additional funding, especially for the SBAExpress program, which has experienced somewhat higher default rates than other SBA loan guaranty programs.[92] Others advocate a more modest increase in the maximum loan limits to ensure that the 7(a) program "remains focused on startup and early-stage small firms, businesses that have historically encountered the greatest difficulties in accessing credit" and "avoids making small borrowers carry a disproportionate share of the risk associated with larger loans."[93]

Others argue that creating a small business direct lending program within the SBA would reduce paperwork requirements and be more efficient in providing small businesses access to capital than modifying existing SBA programs that rely on private lenders to determine if they will issue the loans.[94] Also, as mentioned previously, others argue that providing additional resources to the SBA or modifying the SBA's loan programs as a means to augment small business access to capital is ill-advised. In their view, the SBA has limited impact on small access to capital. They argue that the best means to assist small business economic growth and job creation is to focus on small business tax reduction, reform of financial credit market regulation, and federal fiscal restraint.[95]

H.R. 3854, the Small Business Financing and Investment Act of 2009

H.R. 3854 would authorize several new SBA programs and change several existing SBA programs, including the 7(a) program, in an effort to enhance job creation by increasing the

(...continued)

sba_homepage/sba_rcvry_factsheet_cre_refi.pdf.

[91] Ibid.

[92] Robb Mandelbaum, "Small Business Incentives Face a Hard Road in Congress," *New York Times*, February 12, 2010, http://boss.blogs.nytimes.com/2010/02/12/small-business-incentives-face-a-hard-road-in-congress/; and U.S. Congress, House Committee on Small Business, *House Committee on Small Business Views With Regard to the Fiscal Year (FY) 2010 Budget*, Letter from Nydia Velázquez, Chair, House Committee on Small Business, to John M. Spratt, Jr., Chair, House Committee on the Budget, 111th Cong., 2nd sess., March 11, 2009, p. 3, http://www.house.gov/smbiz/democrats/Reports/FY%202010%20Views%20and%20Estimates%20v2.pdf.

[93] U.S. Congress, House Committee on Small Business, *Small Business Financing and Investment Act Of 2009*, report to accompany H.R. 3854, 111th Cong., 2nd sess., October 26, 2009, H.Rept. 111-315 (Washington: GPO, 2009), p. 1.

[94] Robb Mandelbaum, "Why Won't the S.B.A. Lend Directly to Small Businesses?" *New York Times*, March 10, 2010, http://boss.blogs.nytimes.com/2010/03/10/why-wont-the-s-b-a-loan-directly-to-small-businesses/.

[95] Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, 2009, http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/; and NFIB, "Government Spending," Washington, DC, http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/.

availability of credit to small businesses. The bill was passed by the House, 389-32, on October 29, 2009, and is awaiting action in the Senate.[96]

It would make the following SBA program modifications:

- increase the maximum loan size for 7(a) loans from $2 million to $3 million;
- increase the maximum loan size for 504/CDC loans from $2 million to $3 million for standard borrowers, from $2 million to $4 million for projects located in a low-income community, from $4 million to $8 million for manufacturers, and for up to $10 million for projects that constitute "a major source of employment" as determined by the Administration;
- extend ARRA's fee reductions and the 7(a) program's 90% loan guaranty limit through September 30, 2011;
- extend, with modifications, ARRA's America's Recovery Capital Loan Program (ARC) which temporarily provides small businesses loan assistance for debt relief, through the end of FY2011;[97] and
- would provide a 100% loan guaranty for small business concerns owned and controlled by veterans, and expand and make permanent the SBA's secondary market lending authority.[98]

The bill would also create a temporary SBA direct lending program following enactment that would be available to creditworthy small business borrowers that are unable to find credit elsewhere.[99]

S. 2869, the Small Business Job Creation and Access to Capital Act of 2009

S. 2869 was ordered to be reported by the Senate Committee on Small Business and Entrepreneurship on December 10, 2009 and is awaiting further action in the Senate. It would authorize changes to several SBA programs, including the 7(a) program, and is designed to enhance job creation by increasing the availability of credit to small businesses.

It would make the following SBA program modifications:

- increase the maximum loan size for 7(a) loans from $2 million to $5 million;
- increase the maximum loan size for the 504/CDC loans from $2 million to $5 million for standard borrowers, and from $4 million to $5.5 million for manufacturers;

[96] For further analysis see CRS Report R40985, *Small Business: Access to Capital and Job Creation*, by Robert Jay Dilger and Oscar R. Gonzales.

[97] ARC's loan limit would be increased from $35,000 to $50,000, and to $75,000 in areas of high unemployment, and borrowers would be allowed to use ARC loans to refinance existing SBA loan debt.

[98] H.R. 3854, the Small Business Financing and Investment Act of 2009.

[99] Ibid. For further analysis see CRS Report R40985, *Small Business: Access to Capital and Job Creation*, by Robert Jay Dilger and Oscar R. Gonzales.

- increase the maximum loan size for the Microloan program from $35,000 to $50,000;
- extend ARRA's fee reductions and the 7(a) program's 90% loan guaranty limit through December 31, 2010;
- authorize the SBA to establish an alternative size standard for the 7(a) and 504/CDC programs that uses maximum tangible net worth and average net income as an alternative to the use of industry standards; and
- allow 504/CDC loans to be used to refinance up to $4 billion in short-term commercial real estate debt each fiscal year for two years after enactment into long-term fixed rate loans.[100]

H.R. 5297, the Small Business Lending Fund Act of 2010

H.R. 5297, the Small Business Lending Fund Act of 2010, was passed by the House on June 17, 2010, by a vote of 241-182. S.Amdt. 4407, an amendment in the nature of a substitute for H.R. 5297, was introduced on June 29, 2010. It is pending further action in the Senate. The House-passed version did not address the SBA's existing loan programs. S.Amdt. 4407, which would rename the bill the Small Business Jobs Act of 2010, includes all of the provisions listed above in S. 2869, the Small Business Job Creation and Access to Capital Act of 2009, except that it would allow 504/CDC loans to be used to refinance up to $7.5 billion in short-term commercial real estate debt each fiscal year for two years after enactment into long-term fixed rate loans instead of up to $4 billion each fiscal year.[101]

Concluding Observations

The congressional debate concerning the SBA's 7(a) program is not whether the federal government should act, but which federal policies will most likely enhance small business access to capital and result in job retention and creation. As a general proposition, some, including the chairs of the House and Senate Committees on Small Business and President Obama, have argued that current economic conditions make it imperative that the SBA be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations and create jobs.[102] Others worry about the long-term adverse economic effects of spending programs that increase the federal deficit. They advocate business tax reduction, reform

[100] S. 2869, the Small Business Job Creation and Access to Capital Act of 2009; and H.R. 4213, the American Workers, State and Business Relief Act.

[101] Senator Harry Reid, "SA 4407," *Congressional Record*, daily edition, vol. 156, part 99 (June 29, 2010), pp. S5595, S5596.

[102] Representative Nydia Velázquez, "Small Business Financing and Investment Act of 2009," House debate, *Congressional Record*, daily edition, vol. 155, no. 159 (October 29, 2009), pp. H12074, H12075; Senator Mary Landrieu, "Statements on Introduced Bills and Joint Resolutions," remarks in the Senate, *Congressional Record*, daily edition, vol. 155, no. 185 (December 10, 2009), p. S12910; and The White House, "Remarks by the President on Job Creation and Economic Growth," December 8, 2009, http://www.whitehouse.gov/the-press-office/remarks-president-job-creation-and-economic-growth.

of financial credit market regulation, and federal fiscal restraint as the best means to assist small business economic growth and job creation.[103]

In terms of specific programs, the proposed changes to the SBA's 7(a) program's loan limits that would be authorized by the President's proposal, H.R. 3854 and H.R. 4213 (S. 2869), are designed to achieve the same goal: to enhance job creation by increasing the ability of 7(a) borrowers to obtain credit at affordable rates. Determining how specific changes in federal policy are most likely to enhance job creation is a challenging question. For example, a 2008 Urban Institute study concluded that differences in the term, interest rate, and amount of SBA financing "was not significantly associated with increasing sales or employment among firms receiving SBA financing."[104] However, they also reported that their analysis accounted for less than 10% of the variation in firm performance. The Urban Institute suggested that local economic conditions, local zoning regulations, state and local tax rates, state and local business assistance programs, and the business owner's charisma or business acumen also "may play a role in determining how well a business performs after receipt of SBA financing."[105]

As the Urban Institute study suggests, given the many factors that influence business success, measuring the SBA's 7(a) program's effect on job retention and creation is complicated. That task is made even more challenging by the absence of performance-oriented measures that could serve as a guide. Both GAO and the SBA's OIG have recommended that the SBA adopt outcome performance oriented measures for its loan guaranty programs, such as tracking the number of borrowers who remain in business after receiving a loan to measure the extent to which the program contributed to their ability to stay in business.[106] Other performance-oriented measures that Congress might also consider include requiring the SBA to survey 7(a) borrowers to measure the difficulty they experienced in obtaining a loan from the private sector and the extent to which the 7(a) loan or technical assistance received contributed to their ability to create jobs or expand their scope of operations.

[103] Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, 2009, http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/; and NFIB, "Government Spending," Washington, DC, http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/.

[104] Shelli B. Rossman and Brett Theodos, with Rachel Brash, Megan Gallagher, Christopher Hayes, and Kenneth Temkin, *Key Findings from the Evaluation of the Small Business Administration's Loan and Investment Programs: Executive Summary* (Washington, DC: The Urban Institute, January 2008), p. 58, http://www.urban.org/UploadedPDF/411602_executive_summary.pdf.

[105] Ibid.

[106] U.S. Government Accountability Office, *Small Business Administration: 7(a) Loan Program Needs Additional Performance Measures,* GAO-08-226T, November 1, 2007, p. 2, http://www.gao.gov/new.items/d08226t.pdf; and U.S. Small Business Administration, Office of the Inspector General, *SBA's Administration of the Microloan Program under the Recovery Act*, Washington, DC, December 28, 2009, pp. 6, 7, http://www.sba.gov/idc/groups/public/documents/sba_homepage/oig_reptbydate_rom10-10.pdf.

Appendix. 7(a) Specialized Programs

The 7(a) program has three specialized programs that offer streamlined and expedited loan procedures for particular groups of borrowers, the SBAExpress program, the Community Express Program, and the Patriot Express Program. Lenders must be approved by the SBA for participation in these programs.

SBAExpress Program

The SBAExpress program was established as a pilot program by the SBA on February 27, 1995, and made permanent through legislation, subject to reauthorization, in 2004 (P.L. 108-447, the Consolidated Appropriations Act, 2005). The program was designed to increase the availability of credit to small businesses by permitting lenders to use their existing documentation and procedures in return for receiving a reduced SBA guaranty on loans.[107] It currently provides a 50% loan guaranty on loan amounts up to $350,000. The loan proceeds can be used for the same purposes as the 7(a) program except participant debt restructure cannot exceed 50% of the project and may be used for revolving credit. The loan terms are the same as the 7(a) program, except that the term for a revolving line of credit cannot exceed seven years.

The SBAExpress loan's interest rates are negotiable with the lender, subject to maximums. Rates can be fixed or variable. Fixed rates may not exceed prime plus 6.5% on loans of $50,000 or less and prime plus 4.5% on loans over $50,000. Variable interest rates are based on either the prime rate (as published in *The Wall Street Journal*), the 30-day LIBOR plus 3.0%, or the SBA's optional peg rate (published quarterly in the *Federal Register*) plus 6.5% on loans of $50,000 or less and plus 4.5% on loans over $50,000.[108] The program's fees are the same as the 7(a) program. To account for the program's lower guaranty rate of 50%, lenders are allowed to perform their own loan analysis and procedures and receive SBA approval with a targeted 36-hour maximum turnaround time.[109] Also, collateral is not required for loans of $25,000 or less. Lenders are allowed to use their own established collateral policy for loans over $25,000.

Community Express Pilot Program

The Community Express Pilot Program was created by the SBA in May 1999, in collaboration with the National Community Reinvestment Coalition and its member organizations. The program is designed to increase lending to designated geographic areas comprising low- and moderate-income areas and to women, minorities, and veterans.[110]

[107] U.S. Small Business Administration, "The SBA Express Pilot Program: Inspection Report," Washington, DC, June 1998, p. 3, http://www.sba.gov/idc/groups/public/documents/sba/oig_loarchive_980601.pdf.

[108] U.S. Small Business Administration, "Interest Rates for Loans submitted during March 2010," Washington, DC, http://www.sba.gov/idc/groups/public/documents/va_do_files/va_baserateoptions.pdf.

[109] U.S. Small Business Administration, "SBAExpress," Washington, DC, http://www.sba.gov/financialassistance/prospectivelenders/7a/ep/FA_PL_7ALOAN_SBAEXPRESS.html.

[110] U.S. Congress, House Committee on Small Business, *Small Business Financing and Investment Act Of 2009*, report to accompany H.R. 3854, 111th Cong., 2nd sess., October 26, 2009, H.Rept. 111-315 (Washington: GPO, 2009), p. 7.

The Community Express Pilot Program provides the same loan guaranty as the 7(a) program on loan amounts up to $250,000. The loan proceeds can be used for the same purposes as the 7(a) program except participant debt restructure cannot exceed 15-25% of the project and may be used for revolving lines of credit. The loan terms are the same as the 7(a) program, except that the term for a revolving line of credit cannot exceed seven years. Also, collateral is not be required for loans of $25,000 or less. Lenders are allowed to use their own established collateral policy for loans over $25,000.[111]

The program's interest rates are negotiable with the lender, subject to the same maximum rate limitations as the 7(a) program. It also has the same fees as the 7(a) program.[112]

One of the program's distinguishing features is it that the lender must ensure and document that the borrower receives appropriate technical assistance.[113] Also, the total number of Community Express loans approved cannot exceed 10% of the number of 7(a) loans approved by the SBA in any fiscal year.[114]

Lenders approved for participation in Community Express program are authorized to use the expedited loan processing procedures in place for SBAExpress, with a targeted SBA processing time of one business day. Eligibility for Community Express loans is limited to small businesses whose principal office is located in a HUBZone or Community Reinvestment Act (CRA) designated distressed area, loans made under a SBA headquarters (HQ) approved SBA district office initiative to support a local community/economic development market, and loans of $25,000 or less that are not located in a CRA, HUBZone, or HQ approved district office market.[115]

Patriot Express Pilot Program

In 2007, the SBA created the Patriot Express Pilot Program "to support the entrepreneur segment of the Nation's military community (including spouses)."[116] Borrowers must be owned and controlled (51% or more) by one or more of the following groups: veteran, active duty military participating in the military's Transition Assistance Program, reservist or national guard member or a spouse of any of these groups, a widowed spouse of a service member who died while in service, or a widowed spouse of a veteran who died of a service-connected disability.[117]

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[111] U.S. Small Business Administration, "Community Express," Washington, DC, http://www.sba.gov/financialassistance/prospectivelenders/7a/ep/FA_PL_7ALOAN_COMMEXPRESS.html.

[112] U.S. Small Business Administration, "Interest Rates for Loans submitted during March 2010," Washington, DC, http://www.sba.gov/idc/groups/public/documents/va_do_files/va_baserateoptions.pdf.

[113] Ibid.

[114] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC, (effective October 1, 2009), p. 47, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[115] U.S. Small Business Administration, "SOP 50 10 5(B): Lender and Development Company Loan Programs," Washington, DC, (effective October 1, 2009), pp. 45, 81, http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sops_50105b.pdf.

[116] Ibid., p. 41.

[117] Ibid.

The Patriot Express Pilot Program provides the same loan guaranty as the 7(a) program on loan amounts up to $500,000. The loan proceeds can be used for the same purposes as the 7(a) program except participant debt restructure cannot exceed 15-25% of the project and may be used for revolving lines of credit. The loan terms are the same as the 7(a) program, except that the term for a revolving line of credit cannot exceed seven years. Also, collateral is not required for loans of $25,000 or less. Lenders are allowed to use their own established collateral policy for loans over $25,000 and up to $350,000. For loans exceeding $350,000, lenders must follow the SBA's regulations on collateral for standard 7(a) loans.[118]

The Patriot Express Pilot Program features streamlined documentation and processing features similar to the SBAExpress program, with a targeted SBA processing time of one business day. The program's interest rates are negotiable with the lender, subject to the same maximum rate limitations as the 7(a) program. It also has the same fees as the 7(a) program.[119]

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[118] Ibid., p. 81.
[119] Ibid.