

§ 120.705

13 CFR Ch. I (1-1-02 Edition)

(c) *Consideration of quasi-governmental organizations.* Generally, SBA will consider applications by quasi-governmental organizations only when it determines that program services for a particular geographic area would be best provided by such organization.

[61 FR 3235, Jan. 31, 1996, as amended at 66 FR 47878, Sept. 14, 2001]

§ 120.705 What is a Specialized Intermediary?

At the end of an Intermediary's first year of participation in the program, SBA will determine whether it qualifies as a Specialized Intermediary. An Intermediary qualifies as a Specialized Intermediary if it maintains a portfolio of Microloans averaging \$10,000 or less. Specialized Intermediaries qualify for more favorable interest rates on SBA loans. If, after the first year, an Intermediary qualifies as a Specialized Intermediary, the special interest rate is applied retroactively to SBA loans made to the Intermediary. After the first year SBA will determine an Intermediary's qualifications as a Specialized Intermediary annually, based on its lending practices during the term of its participation in the program. Specialized Intermediaries also qualify for a greater amount of technical assistance grant funding.

[61 FR 3235, Jan. 31, 1996, as amended at 66 FR 47878, Sept. 14, 2001]

§ 120.706 What are the terms and conditions of an SBA loan to an Intermediary?

(a) *Loan Amount.* An Intermediary may not borrow more than \$750,000 in the first year of participation in the program. In later years, the Intermediary's obligation to SBA may not exceed an aggregate of \$3.5 million, subject to statutory limitations on the total amount of funds available per state.

(b) *Repayment terms.* During the first year of the loan, an Intermediary is not required to make any payments, but interest accrues from the date that SBA disburses the loan proceeds to the Intermediary. After that, SBA will determine the periodic payments. The loan must be repaid within 10 years.

(c) *Interest rate.* The interest rate is equal to the rate applicable to five-

year obligations of the United States Treasury, adjusted to the nearest one-eighth percent, less 1.25 percent. However, the interest rate for Specialized Intermediaries is equal to the rate applicable to five-year obligations of the United States Treasury, adjusted to the nearest one-eighth percent, less two percent.

(d) *Collateral.* As security for repayment of the SBA loan, an Intermediary must pledge to SBA a first lien position in the MRF (described below), LLRF (described below), and all notes receivable from Microloans.

(e) *Default.* If for any reason an Intermediary is unable to make payment to SBA when due, SBA may accelerate maturity of the loan and demand payment in full. In this event, or if an Intermediary violates this part or the terms of its loan agreement, it must surrender possession of all collateral described in paragraph (d) of this section to SBA. The Intermediary is not obligated to pay SBA any loss or deficiency which may remain after liquidation of the collateral unless the loss was caused by fraud, negligence, violation of any of the ethical requirements of §120.140, or violation of any other provision of this part.

(f) *Fees.* SBA does not charge Intermediaries any fees for loans under this Program. An Intermediary may, however, pay minimal closing costs to third parties, such as filing and recording fees.

[61 FR 3235, Jan. 31, 1996, as amended at 66 FR 47073, Sept. 11, 2001]

§ 120.707 What conditions apply to loans by Intermediaries to Microloan borrowers?

(a) *General.* An intermediary may make Microloans to any small business eligible to receive financial assistance under this part. A borrower may also use Microloan proceeds to establish a nonprofit child care business. Proceeds from Microloans may be used only for working capital and acquisition of materials, supplies, furniture, fixtures, and equipment. SBA does not review Microloans for creditworthiness.

(b) *Amount and maturity.* Generally, Intermediaries should not make a Microloan of more than \$10,000 to any borrower. An Intermediary may not

make a Microloan of more than \$20,000 unless the borrower demonstrates that it is unable to obtain credit elsewhere at comparable interest rates and that it has good prospects for success. An Intermediary may not make a Microloan of more than \$35,000, and no borrower may owe an Intermediary more than \$35,000 at any one time. Each Microloan must be repaid within six years.

(c) *Interest rate.* The maximum interest rate that can be charged a Microloan borrower is:

(1) On loans of more than \$10,000, the interest rate charged on the SBA loan to the Intermediary, plus 7.75 percentage points; and

(2) On loans of \$10,000 or less, the interest rate charged on the SBA loan to the Intermediary, plus 8.5 percentage points.

[61 FR 3235, Jan. 31, 1996, as amended at 66 FR 47073, Sept. 11, 2001; 66 FR 47878, Sept. 14, 2001]

§ 120.708 What is the Intermediary's financial contribution?

The Intermediary must contribute from non-Federal sources an amount equal to 15 percent of any loan that it receives from SBA. The contribution may not be borrowed. For purposes of this program, Community Development Block Grants are considered non-Federal sources.

§ 120.709 What is the Microloan Revolving Fund?

The Microloan Revolving Fund ("MRF") is an interest-bearing Deposit Account into which an Intermediary must deposit the proceeds from SBA loans, its contributions from non-Federal sources, and payments from its Microloan borrowers. An Intermediary may only withdraw from this account the money needed to establish the Loan Loss Reserve Fund (§ 120.710), proceeds for each Microloan it makes, and any payments to be made to SBA.

§ 120.710 What is the Loan Loss Reserve Fund?

(a) *General.* The Loan Loss Reserve Fund ("LLRF") is an interest-bearing Deposit Account which an Intermediary must establish to pay any shortage in the MRF caused by delin-

quencies or losses on Microloans. An Intermediary must maintain the LLRF until it has repaid all obligations it owes SBA.

(b) *Level of Loan Loss Reserve Fund.* Until it is in the Microloan program for at least five years, an Intermediary must maintain a balance on deposit in its LLRF equal to 15 percent of the outstanding balance of the notes receivable owed to it by its Microloan borrowers ("Portfolio").

(c) *SBA review of Loan Loss Reserve Fund.* After an Intermediary has been in the Microloan program for five years, it may request SBA's Associate Administrator for Financial Assistance ("AA/FA") to reduce the percentage of its Portfolio which it must maintain in its LLRF to an amount equal to the actual average loan loss rate during the preceding five-year period. Upon receipt of such request, the AA/FA will review the Intermediary's annual loss rate for the most recent five-year period preceding the request.

(d) *Reduction of Loan Loss Reserve Fund.* The AA/FA has the authority to reduce the percentage of an Intermediary's Portfolio that it must maintain in its LLRF to an amount equal to the actual average loan loss rate during the preceding five-year period. The AA/FA can not reduce the LLRF to less than ten percent of the Portfolio.

(e) *What must an intermediary demonstrate to get a reduction in Loan Loss Reserve Fund?* To get a reduction in its LLRF, an Intermediary must demonstrate to the satisfaction of the AA/FA that:

(1) Its average annual loss rate during the preceding five years is less than fifteen percent, and

(2) No other factors exist that may impair the Intermediary's ability to repay all obligations which it owes to the SBA under the Microloan program.

[61 FR 3235, Jan. 31, 1996, as amended at 65 FR 17439, Apr. 3, 2000]

§ 120.711 What rules govern Intermediaries?

Intermediaries must operate in accordance with applicable statutes, regulations, policy notices, SBA's Standard Operating Procedures (SOPs), and the information in the application.