

Subpart F—Military Reservist Economic Injury Disaster Loans

SOURCE: 66 FR 38530, July 25, 2001, unless otherwise noted.

§ 123.500 Definitions.

The following terms have the same meaning wherever they are used in this subpart:

(a) *Essential employee* is an individual (whether or not an owner of a small business) whose managerial or technical expertise is critical to the successful day-to-day operations of a small business.

(b) *Military reservist* is a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

(c) *Period of military conflict* means:

- (1) A period of war declared by the Congress,
- (2) A period of national emergency declared by the Congress or by the President, or
- (3) A period of contingency operation, as defined in 10 U.S.C. 101(a).

(d) *Principal owner* is a person or entity which owns 20 percent or more of the small business.

(e) *Substantial economic injury* means an economic harm to the small business such that it cannot:

- (1) Meet its obligations as they mature,
- (2) Pay its ordinary and necessary operating expenses, or
- (3) Market, produce or provide a product or service ordinarily marketed, produced or provided by the business. Loss of anticipated profits or a drop in sales is not considered substantial economic injury for this purpose.

§ 123.501 Under what circumstances is your business eligible to be considered for a Military Reservist Economic Injury Disaster Loan?

Your business is eligible to apply for a Military Reservist EIDL if:

- (a) It is a small business as defined in 13 CFR part 121 when the essential employee was called to active duty,
- (b) The owner of the business is a military reservist and an essential employee or the business employs a mili-

tary reservist who is an essential employee.

(c) The essential employee has been called-up to active military duty during a period of military conflict existing on or after March 24, 1999.

(d) The business has suffered or is likely to suffer substantial economic injury as a result of the absence of the essential employee, and

(e) You and your affiliates and principal owners (20% or more ownership interest) have used all reasonably available funds, and you are unable to obtain credit elsewhere (see § 123.104).

[66 FR 38530, July 25, 2001, as amended at 67 FR 64519, Oct. 21, 2002]

§ 123.502 Under what circumstances is your business ineligible to be considered for a Military Reservist Economic Injury Disaster Loan?

Your business is ineligible for a Military Reservist EIDL if it, together with its affiliates, is subject to any of the following conditions:

- (a) Any of your business' principal owners has been convicted, during the past year, of a felony during and in connection with a riot or civil disorder;
- (b) You have assumed the risk associated with employing the military reservist, as determined by SBA (for example, hiring the "essential employee" after the employee has received call-up orders or been notified that they are imminent);
- (c) Any of your business' principal owners is presently incarcerated, or on probation or parole following conviction of a serious criminal offense;
- (d) Your business is an agricultural enterprise. Agricultural enterprise means a business primarily engaged in the production of food and fiber, ranching and raising of livestock, aquaculture and all other farming and agriculture-related industries. (See 13 CFR 121.107, "How does SBA determine a concern's primary industry?") Sometimes a business is engaged in both agricultural and non-agricultural business activities. If the primary business activity of the business is not an agricultural enterprise, it may apply for a Military Reservist EIDL, but loan proceeds may not be used, directly or indirectly, for the benefit of the agricultural enterprises;