

equipment, furniture, fixtures, facilities, supplies, and material needed to accomplish any of the eligible program purposes in § 120.330.

(b) *Research and development.* Up to 30% of loan proceeds may be used for research and development:

(1) Of an existing product or service; or

(2) A new product or service.

(c) *Working capital.* The Borrower may use proceeds for working capital for entering or expanding in the energy conservation market.

#### **§ 120.333 Are there any special credit criteria?**

In addition to regular credit evaluation criteria, SBA shall weigh the greater risk associated with energy projects. SBA shall consider such factors as quality of the product or service, technical qualifications of the applicant's management, sales projections, and financial status.

Export Working Capital Program (EWCP)

#### **§ 120.340 What is the Export Working Capital Program?**

Under the EWCP, SBA guarantees a revolving line of credit for export purposes (section 7(a)(14) of the Act). Loan maturities may be for up to three years with annual renewals. Proceeds can be used only to finance export transactions. Loans can be for single or multiple export sales.

#### **§ 120.341 Who is eligible?**

In addition to the criteria applicable to all 7(a) loans, an applicant must be in business for one full year at the time of application, but not necessarily in the exporting business. SBA may waive this requirement if the applicant has sufficient export trade experience or other managerial experience.

#### **§ 120.342 What are eligible uses of proceeds?**

Loan proceeds may be used:

- (a) To acquire inventory;
- (b) To pay the manufacturing costs of goods for export;
- (c) To purchase goods or services for export;
- (d) To support standby letters of credit;
- (e) To develop or penetrate foreign markets;
- (f) For pre-shipment working capital; and
- (g) For post-shipment exposure coverage.

#### **§ 120.343 Collateral.**

A Borrower must give SBA a first security interest sufficient to cover 100

percent of the EWCP loan amount (such as insured accounts receivable or letters of credit). Collateral must be located in the United States, its territories or possessions.

#### **§ 120.344 Cash flow projections.**

An applicant must submit cash flow projections to support the need for the loan and the ability to repay. After the loan is made, the loan recipient must submit monthly progress reports.

International Trade Loans

#### **§ 120.345 Policy.**

Section 7(a)(16) of the Act authorizes SBA to guarantee loans to small businesses that are:

- (a) Engaged or preparing to engage in international trade; or
- (b) Adversely affected by import competition.

#### **§ 120.346 Eligibility.**

(a) An applicant must establish that:

- (1) The loan proceeds will significantly expand an existing export market or develop new export markets; or
- (2) The applicant business is adversely affected by import competition; and
- (3) Upgrading facilities or equipment will improve the applicant's competitive position.

(b) The applicant must have a business plan reasonably supporting its projected export sales.

#### **§ 120.347 Use of proceeds.**

The Borrower may use loan proceeds to acquire, construct, renovate, modernize, improve, or expand facilities and equipment to be used in the United States to produce goods or services involved in international trade.

#### **§ 120.348 Amount and percentage of guarantee.**

SBA can guarantee up to \$1,250,000 for a combination of fixed-asset financing and working capital, supplies and EWCP assistance. The non-fixed-asset portion cannot exceed \$750,000.

Qualified Employee Trusts (ESOP)

#### **§ 120.350 Policy.**

Section 7(a)(15) of the Act authorizes SBA to guarantee a loan to a qualified employee trust ("ESOP") to:

- (a) Help finance the growth of its employer's small business; or
- (b) Purchase ownership or voting control of the employer.

#### **§ 120.351 Definitions.**

All terms specific to ESOPs have the same definition for purposes of this section as in the Internal Revenue

Service (IRS) Code (title 26 of the United States Code) or regulations (26 CFR chapter I).

#### **§ 120.352 Use of proceeds.**

Loan proceeds may be used for two purposes.

(a) *Qualified employer securities.* A qualified employee trust may relend loan proceeds to the employer by purchasing qualified employer securities. The small business concern may use these funds for any general 7(a) purpose.

(b) *Control of employer.* A qualified employee trust may use loan proceeds to purchase a controlling interest (51 percent) in the employer. Ownership and control must vest in the trust by the time the loan is repaid.

#### **§ 120.353 Eligibility.**

SBA may assist a qualified employee trust (or equivalent trust) that meets the requirements and conditions for an ESOP prescribed in all applicable IRS, Treasury and DOL regulations. In addition, the following conditions apply:

- (a) The small business must provide the funds needed by the trust to repay the loan; and
- (b) The small business must provide adequate collateral.

#### **§ 120.354 Creditworthiness.**

In determining repayment ability, SBA shall not consider the personal assets of the employee-owners of the trust. SBA shall consider the earnings history and projected future earnings of the employer small business. SBA may consider the business and management experience of the employee-owners. SBA must have evidence that financial assistance is not otherwise available by utilizing:

- (a) The personal resources and credit of the principals of the small business;
- (b) The resources and credit of the small business; or
- (c) The sale of the assets of the small business.

Veterans Loan Program

#### **§ 120.360 Which veterans are eligible?**

SBA may make a direct loan to a small business 51 percent owned by one or more of the following eligible veterans:

- (a) Vietnam-era veterans who served for a period of more than 180 days between August 5, 1964, and May 7, 1975, and were discharged other than dishonorably;
- (b) Disabled veterans of any era with a minimum compensable disability of 30 percent; or
- (c) A veteran of any era who was discharged for disability.