

SMALL BUSINESS ACT

subsection may be reduced, consistent with reducing to zero the cost to the Administration of making such guarantees—

(i) the Administration shall first consider reducing fees paid by small business borrowers under clauses (i) through (iii) of paragraph (18)(A), to the maximum extent possible; and

(ii) fees paid by small business borrowers shall not be increased above the levels in effect on the date of enactment of this subparagraph.

(24) NOTIFICATION REQUIREMENT.—The Administration shall notify the Committees on Small Business of the Senate and the House of Representatives not later than 15 days before making any significant policy or administrative change affecting the operation of the loan program under this subsection.

(25) LIMITATION ON CONDUCTING PILOT PROJECTS.—

(A) IN GENERAL.—Not more than 10 percent of the total number of loans guaranteed in any fiscal year under this subsection may be awarded as part of a pilot program which is commenced by the Administrator on or after October 1, 1996.

(B) PILOT PROGRAM DEFINED.—In this paragraph, the term "pilot program" means any lending program initiative, project, innovation, or other activity not specifically authorized by law.

(C) LOW DOCUMENTATION LOAN PROGRAM.—The Administrator may carry out the low documentation loan program for loans of \$100,000 or less only through lenders with significant experience in making small business loans. Not later than 90 days after the date of enactment of this subsection, the Administrator shall promulgate regulations defining the experience necessary for participation as a lender in the low documentation loan program.

(26) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this subsection shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing loans under this Act.

(27) Repealed.

(28) LEASING.—In addition to such other lease arrangements as may be authorized by the Administration, a borrower may permanently lease to one or more tenants not more than 20 percent of any property constructed with the proceeds of a loan guaranteed under this subsection, if the borrower permanently occupies and uses not less than 60 percent of the total business space in the property.

SBA 21

SYSTEM NAME:

LOAN SYSTEM--SBA 21

SYSTEM LOCATION:

Headquarters, Regional Offices, District Offices, Branch Offices, Processing Centers, and Servicing Centers. See Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (i.e., borrowers, guarantors, principals of businesses named in loan records), throughout the life of SBA's interest in a loan, under all of the Agency's business (non-disaster) loan programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and commercial information (i.e., credit history, financial information, identifying number or other personal identifier) on individuals named in business loan files, throughout the life of SBA's interest in the loan, under all of the Agency's business (non-disaster) loan programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 85-536, 15 U.S.C. 631 et seq. (Small Business Act, all provisions relating to loan programs); 44 U.S.C. 3101 (Records Management by Federal Agencies); and Public Law 103-62 (Government Performance and Results Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES, THESE RECORDS MAY BE USED, DISCLOSED, OR REFERRED:

- a. To SBA Resource Partner, its successors or assigns, (i.e. participating lender, certified development company, micro lender) who initially collected the individual's information for the purpose of making and servicing loans.
- b. To a Congressional office from an individual's record, when that office is inquiring on the individual's behalf; the Member's access rights are no greater than the individual's.
- c. To SBA volunteers, contractors, interns, grantees, experts and who have been engaged by SBA to assist in the performance of a service related to this system of records and who need access to the records in order to perform this activity. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.
- d. To the Federal, state, local or foreign agency or organization which investigates, prosecutes, or enforces violations, statues, rules, regulations, or orders issued when an agency identifies a violation or potential violation of law, arising by general or program statute, or by regulation, rule, or order.
- e. To qualified investors who have signed a confidentiality agreement related to review of files for the purpose of evaluating, negotiating and implementing the purchase of loans from SBA as a part of SBA's Asset Sales program.
- f. To request information from a Federal, State, local agency or a

private credit agency maintaining civil, criminal or other information relevant to determining an applicant's suitability for a business loan. This applies to individuals involved in business loans.

g. To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable.

h. To 7(a) and 504 lenders and/or participating contractors for purposes of the Loan and Lender Monitoring System.

i. To the Department of Justice (DOJ) when any of the following is a party to litigation or has an interest in such litigation, and the use of such records by DOJ is deemed by SBA to be relevant and necessary to the litigation, provided, however, that in each case, SBA determines the disclosure of the records to DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected: SBA, or any component thereof; any SBA employee in their official capacity; any SBA employee in their individual capacity where DOJ has agreed to represent the employee; or The United States Government, where SBA determines that litigation is likely to affect SBA or any of its components.

j. In a proceeding before a court, or adjudicative body, or a dispute resolution body before which SBA is authorized to appear or before which any of the following is a party to litigation or has an interest in litigation, provided, however, that SBA determines that the use of such records is relevant and necessary to the litigation, and that, in each case, SBA determines that disclosure of the records to a court or other adjudicative body is a use of the information contained in the records that is a compatible purpose for which the records were collected: SBA, or any SBA component; any SBA employee in their official capacity; any SBA employee in their individual capacity where DOJ has agreed to represent the employee; or The United States Government, where SBA determines that litigation is likely to affect SBA or any of its components.

k. To appropriate agencies, entities, and persons when: SBA suspects or has confirmed that the security or confidentiality of information in the system records has been compromised; SBA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security and integrity of this system or other systems or programs (whether maintained by the Agency or entity) that rely upon the compromised information; and the disclosure made to such agencies, entities and persons is reasonably necessary to assist in connection with SBA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

##### STORAGE:

Electronic Records are in a secured server and paper records are in files. Loan files are in a secured area in either locked files or locked file rooms.

##### RETRIEVABILITY:

Electronic Records: By individual name, personal identifier, SBA

Identifier, Participating Lender Identifier, Participating Lender Name, business name, and business identifier. Paper Records: By individual name, personal identifier and SBA Identifier.

**SAFEGUARDS:**

Electronic Records: Access and use is limited to Agency officials acting in their official capacities, with a need-to-know, and to SBA Resource Partners. Access and use by SBA Resource Partners will generally be via the Internet, with restricted password(s)/passcode(s).

SBA Resource Partners, their successors or assigns, will have access only to those individual records that were collected by that particular partner. Information contained in files will be available only to potential asset sale purchasers who have executed a confidentiality agreement. Only SBA employees in the performance of their official duties, who are granted access to the records by Agency issuance of User ID and/or passcode, may amend or review he records. Paper Records: Access and use is limited to SBA officials acting in their official capacities, with a need-to-know. SBA Resource Partners, their successors or assigns, will have access only to the individual records that were collected by that particular partner. Information contained in loan files will be available only to potential asset sale purchasers who have executed a confidentiality agreement. Only those SBA employees in the performance of their official duties may review or amend the records.

**RETENTION AND DISPOSAL:**

In accordance with SBA Standard Operating Procedure 00 41 2, Item Nos. 50:04, 50:08, 50:09, 50:10, 50:11, 50:12, 50:13, 50:19, 50:22, 55:02. Records are retained for the life of SBA's interest in the business loan and are disposed of according to the reference in the SOP that pertains to a particular type of record; retention period varies according to the type of record.

**SYSTEM MANAGERS AND ADDRESSES:**

Associate Administrator for Capital Access, Associate Administrator for Lender Oversight, Associate Administrator for Financial Assistance, Regional Administrators, District Directors, Branch Managers, Loan Service Center Director and Loan Processing Centers Directors. See Appendix A.

**NOTIFICATION PROCEDURE:**

An individual may submit a written record inquiry to the appropriate Systems Manager or PA Officer.

**RECORDS ACCESS PROCEDURES:**

Systems Manager or PA Officer will determine procedures.

**CONTESTING RECORD PROCEDURES:**

Notify officials listed above and state reason(s) for contesting and proposed amendment(s) sought.

**RECORD SOURCE CATEGORIES:**

Subject individuals and businesses, financial institutions, credit reporting agencies, law enforcement agencies and SBA resource partners