

**SBA 504 Loan Disclosure**

**Please read and sign this disclosure statement. Contact Economic Development Foundation at (616) 459-4825 if you have any questions about the information in this Disclosure Statement. A signed Disclosure Statement and a deposit must be given to Economic Development Foundation prior to submitting an application to SBA.**

**Disclosure Statement / Information about the SBA 504 Loan Program**  
U.S. Small Business Administration (SBA) 504 Loan Program

The SBA 504 Loan Program (Program) offers eligible small businesses a means to finance expansion projects through long-term, fixed-rate financing. The Program, offered in partnership with a participating lending institution, may provide a small business up to 90% of a project's total financing requirements.

The SBA relies on the services of a "Certified Development Company" like the Economic Development Foundation – Certified (EDF), to package, coordinate, fund and service Program Loans. Economic Development Foundation provides small businesses access to the Program in a service territory encompassing the state of Michigan.

This Disclosure Statement is intended for informational purposes only. It is not a complete listing of all relevant policies and loan requirements. The loan applicant is solely responsible for locating, understanding and following all Program policies and requirements.

**1. NO REPRESENTATIONS**

Program Loan funding is subject to satisfactory compliance with the terms and conditions set forth in an SBA Authorization and Debenture Guarantee. By signing this Disclosure Statement, the applicant acknowledges that it has not relied upon any representations made by EDF or its agents, and that EDF or its agents made no representations or promises to the applicant or its agents regarding EDF or SBA approval of a loan or qualifications to receive a Program Loan.

**2. TWO STAGE PROCESS**

Two stages are involved in securing a Program Loan: (a) An "application" is completed and sent to SBA for approval. Once and if the SBA approves the application, the SBA will issue a written "Authorization" that will contain a detailed summary of the terms of the proposed loan, and (b) "funding" through the Program occurs when the project is complete and all requirements in the authorization have been met.

**3. INTEREST RATES**

For approved small business fixed asset expansion projects, EDF will sell a debenture (bond) to finance up to 40% of the identified total project cost. A participating lender typically provides financing for 50% of the total project cost. The debentures are sold monthly on the New York market. At the time a debenture is sold, a FIXED RATE will be placed on the debenture. This fixed interest rate is not set until the debenture is sold.

The fixed rate quoted to you is an effective rate and is comprised of three fees: CSA fee, CDC fee, and SBA fee.

**4. LENGTH OF LOANS**

Program Loans are typically provided as a twenty year, fixed interest rate loan. However, ten year, fixed rate loans are also available for business expansion projects involving real estate. Expansion projects solely for the purchase of machinery or equipment are typically financed as ten year, fixed rate loans.

**5. ELIGIBLE PROJECT COSTS**

The following items are considered "Eligible Costs" in determining a projects total cost:

- (a) Land and building acquisition;

- (b) Building improvements, renovation and new construction;
- (c) Professional Fees related to the project, including appraisal, environmental, survey, title insurance and other eligible soft costs;
- (d) Interim interest; and
- (e) Equipment and Installation costs.

**6. SIZE ELIGIBILITY REQUIREMENTS**

A small business loan applicant, together with its affiliates may not have a tangible net worth in excess of \$15 million, and may not have an average net income after tax, in excess of \$5.0 million (two year average). Exceptions are allowed to this general rule. Affiliation occurs when a small business controls or has the power to control the other.

**7. PERSONAL / CORPORATE GUARANTEES**

Personal guarantees are required from every person or entity owning 20% or more of an eligible small business applicant or an Eligible Passive Company (EPC) owning project real estate, machinery or equipment. Additional guarantors may be required on a case-by-case basis.

**8. LEASE REQUIREMENTS**

If an expansion project involves leasing space in an existing building, the loan applicant must occupy at least 51% of the total building space.

If an expansion project involves new construction, the loan applicant must occupy 60% of the total building space, occupy additional space within three years, and reasonably expect to occupy at least 80% of the total building space within ten years. No more than 20% of the total building space may be permanently leased out. For an existing building project, Program Loan proceeds in general may not be used to finish any portion of the building not occupied by the applicant.

The Operating Company must lease 100% of the property from the Eligible Passive Company, but it can sublease a portion of the property under the rules governing occupancy requirements with which all SBA borrowers must comply. All subleases must be subordinated to the lien and all rights and remedies of the CDC and SBA created in and provided for by the Mortgage.

The Operating Company must have current lease(s) in place on all business premises where collateral is located with a term, including options, at least as long as the term of the loan.

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**9. ECONOMIC DEVELOPMENT OBJECTIVES**

The Program's overall objective is to assist small businesses to create jobs. EDF considers how many job opportunities might reasonably be created by a small business entity within two years of receiving a Program Loan or whether a proposed project meets one of the SBA's "community development" or "public policy" objectives.

Community Development goals include: (a) improving, diversifying or stabilizing of the local economy; (b) stimulating other business development; (c) bringing new income into the community; (d) assisting manufacturing firms; and (e) assisting businesses in labor surplus areas.

Public Policy goals are met when the eligible small business applicant is: (a) revitalizing a business district of a community with a written revitalization or redevelopment plan; (b) expansion of exports; (c) expansion of small businesses owned and controlled by women; (d) Expansion of small businesses owned and controlled by veterans; (e) Expansion of minority enterprise development; (f) aiding rural development; (g) Increasing productivity and competitiveness; (h) modernizing or upgrading facilities to meet health, safety, and environmental requirements; or (l) assisting businesses in or moving to areas affected by Federal budget reductions, including base closings, either because of the loss of Federal contracts or the reduction in revenues in the area due to a decreased Federal presence.

The maximum Program loan amount may be \$5,000,000 for loans that qualify under the job requirement goal, community development goal, or public policy goal. For loans to manufacturers or alternative energy companies the maximum Program loan amount may be \$5,500,000.

**10. REAL ESTATE OWNERSHIP**

An Eligible Passive Concern (EPC) and certain types of trusts are permitted to hold title to real estate and lease a project facility to an eligible small business operating company. A copy of a master lease between the EPC and the eligible small business operating company is required, and must be provided prior to the funding of Program Loan proceeds. The lease term must be at least as long as the term of the debenture. Lease payments will be limited to debt service plus allowable expenses including real estate and rental taxes, association fees/dues, utilities, insurance and reasonable repair/replacement reserves. The assets held in the EPC are limited to project property. An exception can be considered if additional assets are related to another 504 project.

Program Loan funds may be utilized to finance projects involving multiple, unrelated eligible small business operating companies. The operating companies may be required to apply as Co-borrowers or Guarantors.

**11. LIFE INSURANCE REQUIREMENT**

SBA or EDF may require a collateral assignment of key-person life insurance on the principal or principals of the small business applicant, up to the equivalent value of the Program Loan.

**12. PREPAYMENTS OF PROGRAM LOANS**

A small business may pre-pay the Program Loan, in full, prior to a scheduled maturity date, but will incur a prepayment premium over the first half of the life of the loan. This premium penalty declines each year. Partial or additional payments may not be made under the terms of the Program. Prepayments may be made during any monthly payment if the Borrower gives at least 45 days' notice to EDF. The prepayment amount will include the balance of the loan at the next semi-annual debenture payment, prepayment premium as of the semi-annual date, and all monthly payments due up to and including the semi-annual month.

**13. ASSUMED PROGRAM LOANS**

The Program Loan amount and eligibility considerations may not apply if a Program Loan is assumed by a third party. EDF may assess a fee on the outstanding indebtedness for any loan assumed by a third party.

**14. PRIOR BANKRUPTCIES**

An applicant must fully disclose all prior bankruptcies. EDF reserves the right to withhold approval of applications where a business or its principals have taken prior bankruptcy protection from creditors.

**15. PRIOR CRIMINAL OFFENSES / ARRESTS**

A prior criminal arrest or conviction does not always disqualify an individual from participating in the Program. Full disclosure of criminal arrests or convictions is required. If an individual applicant positively answers questions 7, 8 or 9 on the Statement of Personal History (SBA Form 912), that individual will be required to explain the reason(s) for the positive answer(s), along with that statement that *no similar occurrences have since taken place*. SBA Form 912 should include a description of the arrest or conviction charges, dates of the events, and the court's sentence, if any.

**16. LEGAL PERMANENT RESIDENTS**

The Program is available to businesses owned by persons who are not United States citizens. However, processing procedures, terms and conditions vary, depending upon the residency status assigned to the applicant by the Immigration and Naturalization Service.

The status of each Legal Permanent Resident must be verified by EDF as part of the loan application process. Accordingly, applicants seeking Program Loans who are not citizens of the United States must provide: (a) a legible copy of DOCUMENTATION (front and back) evidencing resident status and, (b) a PERMISSION LETTER, signed and dated, which includes the statement "I authorize the Immigration and Naturalization Service to release information regarding my immigration status to Economic Development Foundation." Additional documentation may be necessary.

**17. CHILD SUPPORT COMPLIANCE**

A person who owns at least 50% of the ownership or voting interest in a small business applying for a Program Loan, may not be more than 50 days delinquent under the terms of any: (a) administrative order, (b) court order, or (c) repayment agreement requiring payment of child support. A certification of compliance will be required before funding.

**18. TRANSACTION COSTS / FEES**

The following fees relate to all Program Loan applications:

- (a) A deposit of up to \$2,500 is required at the time EDF accepts a loan application for processing. This deposit is held in escrow and credited to the applicant after funding of the SBA debenture.

This deposit covers EDF's administrative and processing costs should the business decide to withdraw an application at any time before the SBA issues an Authorization. In the event of a withdrawal after the SBA has issued an Authorization, the small business applicant agrees to pay a fee equal to two-thirds of the loan processing fee (1.5% of debenture amount) described below. The small business will receive an offset against this in an amount equal to the amount of any deposit paid to EDF. If EDF or the SBA declines an application, the deposit will be promptly returned in full.

- (b) A "Loan Documentation/Closing Fee" is charged to the applicant for EDF's legal counsel's costs associated with the preparation and execution of all the required SBA documents that must be submitted to secure the funding on the debenture on the public market. This fee, \$3,500, is rolled into the final loan amount. The applicant must also pay for any expenses incurred by the closing counsel and may be required to pay for any extraordinary services provided by closing counsel.
- (c) Any fees or costs charged by a partner commercial lender, and, any miscellaneous closing costs, including title insurance fees, recording costs, etc., must be paid by the small business applicant. If a debenture is not funded, the applicant is responsible for paying any / all fees incurred by EDF on behalf of the project.

Additionally, any specific out-of-pocket costs such as appraisal and environmental reports are the sole responsibility of the applicant or borrower.

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**19. PARTICIPATING LENDER / BANK FEE**

A one-time "Participation Fee" of 0.5% of the senior lien position to the Program lien, is due at closing and payable to Wells Fargo Bank by the participating third party lender through Economic Development Foundation.

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**20. ENVIRONMENTAL REPORT**

Prior to the final disbursement of Program loan funds, evidence must be provided that all real estate owned by the applicant is free and clear of

environmental hazards. Either a Records Search with Risk Assessment (RSRA), Phase I Environmental Risk Assessment, Phase II Environmental Risk Assessment, or Baseline Environmental Assessment with Due Care Provisions. The BEA and Due Care Plan must be sent to Michigan Department of Environmental Quality (DEQ) to obtain a Letter of "No Further Action." All costs associated with the environmental report(s) will be paid in full by the applicant or borrower.

**21. APPRAISAL**

All appraisals must be ordered by the participating first position lender and performed by either a State licensed or State Certified appraiser. If the loan will be used to finance new construction or the substantial renovation of an existing building, the appraisal must estimate what the market value will be at completion of construction. (Substantial means rehabilitation expenses of more than one-third of the purchase price or fair market value at the time of the application.) After construction is completed, CDC must obtain a statement from the appraiser that the building was built with only minor deviations (if any) from the plans and specifications upon which the original estimate of value was based. All costs associated with the appraisal report(s) will be paid in full by the applicant or borrower.

**22. FLOOD/EARTHQUAKE HAZARDS**

Flood insurance must be purchased if any building, machinery, or equipment acquired, installed, improved, constructed, or renovated with the proceeds of a Program loan, is located in a special flood hazard area. A Flood Zone Certificate will be required to substantiate whether or not the property is located in a flood zone. Newly constructed facilities must conform with the National Earthquake Hazards Reduction Program or substantially equivalent building codes. A letter from the contractor will be required to substantiate this fact.

**23. START-UP BUSINESSES**

If an eligible small business applicant has been in operation for two years or less, it must invest at least 15% of the eligible project costs, reducing the Program loan participation to a maximum of 35%.

**24. SINGLE PURPOSE BUILDINGS**

If a project involves a limited or single-purpose structure an eligible small business applicant must invest at least 15% of the eligible project costs, reducing Program loan participation to a maximum of 35%.

**25. START-UP BUSINESSES AND SINGLE PURPOSE BUILDINGS**

If the project involves both a start-up business and a limited purpose building, a small business applicant must invest at least 20% of eligible project costs, reducing the Program loan participation share to a maximum of 30%.

**26. INTERIM AND CONSTRUCTION FINANCING**

Due to the nature of Program loans, interim or construction financing is necessary to cover the period of time between the approval of a financing application and the sale of a debenture to fund the Program loan portion of the total financing project.

**27. TIMING ON FUNDING OF SBA DEBENTURES**

Once all the necessary Program loan documents have been executed at the conclusion of an expansion project, there is a minimum six week period until funding. SBA Program debentures are only sold once each month (on the Wednesday after the second Sunday). Funds received from this sale are wire transferred directly to the participating lending institution.

**28. METHOD OF DEBENTURE PAYMENTS**

Monthly loan payments on a Program loan will be made by an automatic electronic transfer (ACH debit) from a bank account designated by the small business entity. Payments are due on the first working day of each month, beginning with the month immediately following the actual sale or funding of a debenture.

**29. EQUAL CREDIT OPPORTUNITY**

Economic Development Foundation is an equal credit opportunity lender. The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract), handicap, or, because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

**30. INDEMNIFICATION**

The small business applicant will indemnify and hold Economic Development Foundation and its agents harmless from any and all loss of injury, including reasonable attorney fees, resulting or arising from failure by the applicant to receive such loan, and any loss or liability to applicants or the business of the applicant.

**31. CREDIT ALERT VERIFICATION REPORTING SYSTEM (CAIVRS)**

If the small business applicant defaults on the SBA-guaranteed loan and SBA suffers a loss, the names of the small business and the guarantors of the SBA-guaranteed loan will be referred for listing in the CAIVRS database, which may affect the eligibility of the small business and guarantors for further financial assistance.

**32. NO ADDITIONAL PROVISIONS**

Except for a written Authorization that may be issued by the SBA to the small business applicant, the undersigned acknowledges that the EDF has made no other promises, terms, or agreements (oral or written) to the undersigned, and that the Program's rules and fees are subject to change at any time. It is recommended that the small business applicant engage its own legal counsel to review any and all legal issues regarding the Program.

The undersigned acknowledges that he or she understands the provisions described within this agreement.

**ELIGIBLE PASSIVE COMPANY**

*Must be signed by authorized representative of company*

Company: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SMALL BUSINESS/OPERATING COMPANY**

*Must be signed by authorized representative of company*

Company: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_