



Billing Code: 8025-01

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Express Bridge Loan Pilot Program; Modification of Fee Policy

AGENCY: U.S. Small Business Administration.

ACTION: Notification of change to Express Bridge Loan Pilot Program and impact on regulatory provision.

SUMMARY: On October 16, 2017, the U.S. Small Business Administration (SBA) published a document announcing the Express Bridge Loan Pilot Program (Express Bridge Pilot). In that document, SBA provided an overview of the Express Bridge Pilot and modified an Agency regulation relating to loan underwriting for loans made under the Express Bridge Pilot. SBA continues to refine and improve the design of the Express Bridge Pilot and is issuing this document to revise the program requirements, including the modification of an Agency regulation relating to fees that can be collected from the Applicant or Borrower in connection with a loan made under the Express Bridge Pilot.

DATES: The revised program requirements described in this document apply to all Express Bridge Pilot loans approved on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], and the Express Bridge Pilot will remain available through September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Dianna Seaborn, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, D.C. 20416; Telephone (202) 205-3645; email address: dianna.seaborn@sba.gov.

SUPPLEMENTARY INFORMATION: On October 16, 2017, SBA published a document announcing the Express Bridge Pilot. (82 FR 47958) The Express Bridge Pilot is designed to supplement the Agency’s disaster response capabilities and authorizes the Agency’s 7(a) Lenders with SBA Express lending authority to deliver expedited SBA-guaranteed financing on an emergency basis for disaster-related purposes to small businesses located in communities impacted by a Presidentially-declared disaster, while the businesses apply for and await long-term financing (including through SBA’s direct disaster loan program, if eligible).

The Express Bridge Pilot applies the policies and procedures in place for the Agency’s SBA Express program, except as outlined in the Federal Register document published on October 16, 2017. Pursuant to the authority provided to SBA under 13 CFR 120.3 to suspend, modify or waive certain regulations in establishing and testing pilot loan initiatives, SBA modified the regulation at 13 CFR 120.150 (“What are SBA’s lending criteria?”), which applies to loans made in the 7(a) Business Loan Program. SBA modified the regulation in order to minimize the burdens on the businesses applying for loans through the Express Bridge Pilot and to expand the opportunities for SBA Express lenders to participate in the pilot.

SBA continues to refine and improve the design of the Express Bridge Pilot and, therefore, is issuing this document to clarify the fees that Lenders or third parties are able to collect from Applicants or Borrowers in connection with loans made under the pilot. All Express Bridge Pilot loans are subject to the same upfront guaranty fees required for 7(a) loans of similar size and maturity as set forth in 13 CFR 120.220. In addition, all

Express Bridge Pilot loans are subject to the same Lender's annual service fee required for all 7(a) loans as set forth in 13 CFR 120.220(f).

In order to ensure that Applicants and Borrowers are charged only those additional fees reasonably necessary in connection with an Express Bridge Pilot loan, SBA is modifying the regulation at 13 CFR 120.221 ("Fees and expenses which the Lender may collect from a loan applicant or Borrower"), using the term modify as contemplated under 13 CFR 120.3, to permit Lenders to collect only the following:

1. Lender Fees: An SBA Express Lender must not impose any fees or direct costs on an Express Bridge Pilot Applicant or Borrower, except for the following:

a. Application Fee: SBA Express Lenders may charge an Express Bridge Pilot Applicant an application fee. The maximum permissible application fee is 2% of the loan amount or \$250, whichever is greater. If an application fee is charged, it must be disclosed on SBA Form 159(7a), Fee Disclosure Form and Compensation Agreement for Agent Services in Connection with a SBA 7(a) Loan. If an undisbursed loan is canceled, the Lender may retain the application fee;

b. Late Payment Fee: A late payment fee not to exceed 5 percent of the scheduled Express Bridge Pilot loan payment; and

c. Liquidation Costs: The reasonable direct costs of liquidation.

2. Prohibition on all other fees and charges, including by loan packagers, referral agents or brokers. Except as permitted in 1. above, no other fee or costs may be charged to an Express Bridge Pilot Applicant or Borrower by the Lender. In addition, no fee or costs may be charged to an Express Bridge Pilot Applicant or Borrower by any third

party in connection with an Express Bridge Pilot loan, including any referral fee, broker's fee, or similar fee.

The modification of this regulation will permit SBA Express lenders to recoup some of their costs in processing the application, without subjecting the Applicant to excessive or unnecessary fees for these small guaranteed loans that are intended to provide immediate cash to assist the small business with rebuilding and continuing or restarting its operations while awaiting long-term disaster financing. SBA believes that the costs of the program should be kept as low as possible to aid the disaster-affected small business. The application fee is optional; therefore an SBA Express Lender may choose not to collect an application fee from an Express Bridge Pilot Applicant.

Additionally, because an Express Bridge Pilot loan Applicant must have had an existing banking relationship with the SBA Express lender, there is no need for either the Applicant or the Lender to pay a referral fee, broker's fee, or similar fee for these loans.

SBA's modification of 13 CFR 120.221 is authorized by 13 CFR 120.3 of its regulations, which provides that the SBA Administrator may suspend, modify or waive rules for a limited period of time to test new programs or ideas. This modification applies only to loans made under the Express Bridge Pilot and will last only for the duration of the pilot, which expires September 30, 2020. As part of the Express Bridge Pilot, this modification applies only to those small businesses that were located, as of the date of the applicable disaster, in counties that have been Presidentially-declared as disaster areas, plus any contiguous counties. A listing of Presidentially-declared disaster declarations, including primary and contiguous counties can be located at www.sba.gov/disaster.

All other SBA terms and conditions and regulatory waivers related to the Express Bridge Pilot remain unchanged.

SBA will provide more detailed guidance in the form of a program guide, which will be available on SBA's website, <http://www.sba.gov>. SBA may also provide additional guidance, if needed, through SBA notices, which also will be published on SBA's website, <http://www.sba.gov>.

Authority: 15 U.S.C. 636(a)(25); 13 CFR 120.3.

Dated: April 26, 2018.

Linda E. McMahon,

Administrator

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