

## ELIGIBILITY INFORMATION REQUIRED FOR AMERICA'S RECOVERY CAPITAL (ARC) LOAN SUBMISSION

**(This form is to be completed by the Lender.)**

**I. Complete this section. If the answer to the statement is "No," the loan is not eligible to be submitted under this program.**

Applicant Name \_\_\_\_\_  
Lender Name \_\_\_\_\_  
Purpose of Loan \_\_\_\_\_  
Describe Type of Business \_\_\_\_\_

Applicant is an operating business organized for profit, is located in United States, has demonstrated a need for the desired credit, and the desired credit is not otherwise available on reasonable terms from non-Federal sources. YES\_\_\_NO\_\_\_

The products and/or services of the Applicant business are available to the general public. YES\_\_\_NO\_\_\_

Applicant is a Viable Small Business. (Refer to SBA policy guidance.) YES\_\_\_NO\_\_\_

Applicant has certified that it is experiencing immediate financial hardship and has provided documentation to support the certification. (Refer to SBA policy guidance.) YES\_\_\_NO\_\_\_

### **Size and Affiliation**

Primary industry of Applicant \_\_\_\_\_ NAICS Code of Applicant \_\_\_\_\_  
Average annual receipts of Applicant Business (excluding affiliates) over last 3 completed fiscal years \_\_\_\_\_  
No. of employees of Applicant Business \_\_\_\_\_ SBA size standard for Applicant \_\_\_\_\_  
(SBA size standards by NAICS industry are found at [13 CFR, part 121.201](#).)

OR (alternative size standard) tangible net worth is \_\_\_\_\_ (not in excess of \$8.5 million) and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two completed fiscal years is \_\_\_\_\_ (not in excess of \$3.0 million). (The alternative size standard is found at [13 CFR, part 121.301](#).)

The combined size calculation of applicant and its affiliates meets the size standard for the applicant's primary industry or the size standard for the primary industry of the applicant and its affiliates, whichever is higher. YES\_\_\_NO\_\_\_

OR  
The combined size calculation of applicant and its affiliates meets the alternative size standard. YES\_\_\_NO\_\_\_

If size standard is exceeded by no more than 25%, Applicant agrees to use the assistance within a labor surplus area. YES\_\_\_NO\_\_\_

### **Check if applicable regarding any affiliates:**

\_\_\_ Applicant has possible affiliates. *If checked, provide the following information in attachment to this form:*

List possible affiliates, discuss possible bases of affiliation and determine if affiliation exists. If affiliation exists, list the primary industry of applicant and affiliates and the NAICS code. Also, state 1) combined average annual receipts over last 3 completed fiscal years or number of employees for applicant and all affiliates OR 2) combined tangible net worth and combined average net income after Federal income taxes (excluding any carry-over losses) for the preceding two fiscal years for applicant and all affiliates.

### **Check if applicable regarding any franchise/license/dealer/jobber agreement:**

\_\_\_ Applicant business has a franchise/license/dealer/jobber or similar agreement. *If checked, answer the following:*

The SBA Franchise Registry lists the franchise/license/dealer/jobber or similar agreement as an approved agreement. YES\_\_\_NO\_\_\_

*If "No," answer the following statement:*

You have made the determination that the applicant business has the right to profit and risk of loss commensurate with ownership and there are no excessive restraints on the sale of the franchise/license/dealer/jobber or similar interest. YES\_\_\_NO\_\_\_

If "No," loan is not eligible.

## **Principals of the Applicant**

No Associate (an officer, director, owner of more than 20 percent of the equity, or key employee) of the Applicant is incarcerated, on probation, on parole, or under indictment for a felony or a crime of moral turpitude. YES\_\_\_NO\_\_\_

All owners of 20 percent or more of the Applicant (including a spouse owning 5 percent or more when the combined ownership of both spouses is 20 percent or more) will guaranty the loan (except for ESOPs or eligible 401(k)Trusts). YES\_\_\_NO\_\_\_

All principals of business are either U.S. citizens or non-U.S. citizens whose status is being verified with USCIS. For non-U.S. citizens, the lender has obtained a copy of the individual's USCIS documentation and submitted a USCIS Form G-845, "Document Verification Request" with supporting information to the appropriate USCIS office. In addition, the lender will not close and disburse the loan prior to receiving confirmation from USCIS that the alien status of all principals meets SBA's policies. YES\_\_\_NO\_\_\_

If "Yes," CHOOSE the ONE that applies (If neither applies, the loan is not eligible):

\_\_\_The business is at least 51 percent owned by individuals who are U.S. citizens and/or who have Lawful Permanent Resident (LPR) status, which lender will verify with the USCIS prior to first disbursement, and control the management and daily operations of the business; OR

\_\_\_The business is at least 51 percent owned by aliens with an alien status other than LPR, which lender will verify with the USCIS prior to first disbursement, the lender has determined that continual and consistent management of the business has been provided by a U.S. citizen or by an LPR (which lender will verify with the USCIS prior to first disbursement) for at least one year and will continue indefinitely AND U.S. collateral is pledged sufficient to pay the loan in full at any time. (Businesses less than one year old do not meet these requirements.)

## **Terms of the Loan**

The loan amount does not exceed \$35,000; the disbursement period does not exceed six consecutive months; and the term of the loan does not exceed six and one-half years. YES\_\_\_NO\_\_\_

## **II. Check any items in this section that are applicable to determine if the loan application is ineligible to be submitted under this program.**

### **Type of Business**

\_\_\_Applicant is or does one of the following. *If checked, loan is not eligible.*

- primarily engaged in the business of lending
- a passive business that holds real and/or personal property to receive rent or lease income and does not provide sufficient services to deem it active and is not an Eligible Passive Company discussed below
- bail bond company
- life insurance company
- does business in a foreign country (except for loan under the International Trade program)
- pyramid sale distribution plan
- any illegal activity
- principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs, whether in a religious or secular setting.
- consumer or marketing cooperative
- earns 1/3 or more of its gross annual revenue from packaging SBA loans
- derives directly or indirectly more than 5% of its gross revenue through the sale of products or services, or the presentation of any depiction or displays, of a prurient sexual nature or that presents any live performances of a prurient nature
- primarily engaged in political or lobbying activities
- a speculative business (such as oil wildcatting, mining and research & development)

\_\_\_ Applicant's NAICS Code is one of the following. If checked, loan is not eligible. (Refer to SBA Policy Notice No. 5000-1105, Recovery Act – Restricted Uses of Funds for guidance.)

- 713210 (Casinos (Except Casino Hotels))
- 721120 (Casino Hotels)
- 713290 (Other Gambling Industries)
- 713910 (Golf Courses and Country Clubs)
- 712130 (Zoos and Botanical Gardens)

\_\_\_ Applicant's NAICS Code is 713940 (Fitness and Recreational Sports Centers). If checked, answer the following question. If "No," loan is not eligible. (Refer to SBA Policy Notice No. 5000-1105, Recovery Act – Restricted Uses of Funds for guidance.)  
Business has a swimming pool or wave pool and the Standard 7(a) Guaranty Loan Processing Center has determined in writing that the business is eligible. YES \_\_\_ NO \_\_\_

\_\_\_ Applicant is or does one of the following: If checked, loan is not eligible to be submitted under delegated authority.  
Has operations, facilities, or offices located overseas (other than those strictly associated with the marketing and/or distribution of products exported by the applicant which is located in the U.S.)

(Answering "No" to any of the following statements will render the applicant ineligible.)

\_\_\_ Applicant is a pawn shop. If checked, answer the following question. If "No" loan is not eligible.  
More than 50% of Applicant's income for the previous year was from the sale of merchandise rather than from interest on loans. YES \_\_\_ NO \_\_\_

\_\_\_ Applicant is a mortgage service company. If checked, answer the following question. If "No" loan is not eligible.  
All mortgage loans funded are sold within 14 days of loan closing. YES \_\_\_ NO \_\_\_

\_\_\_ Applicant is a business that receives rental income (such as a mini-warehouse or office suite). If checked, answer the following question. If "No," loan is not eligible.  
Applicant has provided adequate documentation that at least 50 percent of Applicant's revenue for the prior year is from services provided (not rental income); or if a new business, projections demonstrate that at least 50 percent of Applicant's revenue will be from services provided. YES \_\_\_ NO \_\_\_

\_\_\_ Applicant is a motel, trailer park, campground or similar type of business. If checked, answer the following question. If "No" loan is not eligible.  
Applicant derives 50 percent or more of its gross annual income from transients who stay for periods of time not exceeding 30 days. YES \_\_\_ NO \_\_\_

\_\_\_ Applicant is a government-owned entity. If checked, answer the following question. If "No" loan is not eligible.  
Applicant is business owned or controlled by a Native American tribe, but is a separate legal entity from the tribe. YES \_\_\_ NO \_\_\_

(Answering "Yes" to any of the following statements will render the applicant ineligible.)

\_\_\_ Any of gross annual revenue of Applicant business is derived from gambling (including the sale of "lotto" tickets). If checked, answer the following question. If "Yes," loan is not eligible.

The revenue from gambling activities accounts for more than 1/3 gross annual revenue of Applicant business. YES \_\_\_ NO \_\_\_

Applicant business is a racetrack, casino or otherwise has gambling as its reason for being. YES \_\_\_ NO \_\_\_

\_\_\_ Applicant is a private club or business. If checked, answer the following question. If "Yes" loan is not eligible.  
Business limits the number of memberships for reasons other than capacity. YES \_\_\_ NO \_\_\_

## **Use of Proceeds**

(Answer the following regarding the use of proceeds for the **ARC Loan**):

- For a purpose other than to make periodic payments of principal and/or interest on one or more Qualifying Small Business Loan(s) ("QSBL"). *If checked, loan is not eligible.*
- To make payments on an existing SBA loan made or guaranteed before February 17, 2009. *If checked, loan is not eligible.*
- To make payments on past-due Federal or state payroll taxes. *If checked, loan is not eligible.*
- For a purpose that will not benefit the small business. *If checked, loan is not eligible.*
- To provide or refinance funds used for payments, distributions, or loans to an Associate\* of the Applicant.  
*If checked, loan is not eligible.*
- \*An Associate of a small business is an officer, director, owner of more than 20 percent of the equity, or key employee.
- The QSBL(s) is/are current or not more than 60 days past due.  
*If checked, loan is not eligible to be submitted under delegated authority.*

(Answer the following regarding the original use of proceeds for the **QSBL**):

- To provide or refinance funds used for payments, distributions, or loans to an Associate of the Applicant.  
*If checked, ARC loan is not eligible.*
- To refinance a debt owed to a Small Business Investment Company. *If checked, loan is not eligible.*
- To provide funds for floor plan financing. *If checked, loan is not eligible.*
- To invest in real or personal property acquired and held primarily for sale, lease, or investment. *If checked, loan is not eligible.*
- To fund a change in ownership. *If checked, answer the following question. If "No," loan is not eligible.*  
Change was 100% of ownership or a business repurchasing 100% or more of its owners' interests. YES \_\_\_ NO \_\_\_
- For a purpose that did not benefit the small business. *If checked, loan is not eligible.*

## **Special Program Requirements**

Answer the following:

All questions in Question 1 on any required SBA Form 2315, America's Recovery Capital (ARC) Borrower Information Form were answered "No." TRUE \_\_\_ FALSE \_\_\_

If above answered "False," then one of the following must be checked to be eligible:

Individual that answered "Yes" on SBA Form 2315 has completed an SBA Form 912 (Statement of Personal History) AND Lender has cleared the loan for processing based on SOP 50 10(5) guidelines for lenders.

OR

The charge resulting in a "yes" answer on SBA Form 2315 was a single misdemeanor that was subsequently dropped without prosecution and Lender has documentation from the appropriate court or prosecutor's office showing that the charge was dropped.

OR

Lender has submitted the required SBA Form 912 and any additional documentation required to the district or branch SBA office serving the territory where the business applicant is located and has subsequently received written clearance of the character issue(s) from SBA Headquarters through the district or branch SBA office.

The collateral policies applied to this loan are consistent with the lender's non-SBA guaranteed commercial loan policies for similarly sized loans. *If "No" loan is not eligible* YES \_\_\_ NO \_\_\_

Check the following that apply:

\_\_\_ Applicant business previously defaulted on a Federal loan or Federally assisted financing that resulted in the Federal government or any of its departments or agencies sustaining a loss; or another business owned or controlled by a principal or any Associate of the applicant business defaulted on a Federal loan (or guaranteed a loan which was defaulted) and caused the Federal Government or any of its agencies or departments to sustain a loss in any of its programs, including any compromise agreement with any such agency/department; or a principal of the applicant business was the recipient of a student loan that is in delinquent status.  
*(If checked, loan is not eligible.)*

\_\_\_ Applicant has an existing SBA loan(s).

*If checked, answer the following questions.*

Applicant does not have an existing ARC loan. YES \_\_\_ NO \_\_\_  
*If "No" loan is not eligible.*

Applicant has not used the QSBL as the basis for another ARC loan. YES \_\_\_ NO \_\_\_  
*If "No" loan is not eligible.*

\_\_\_ Applicant has paid or has committed to pay a fee to a third party to assist in the preparation of the loan application or application materials, or the Applicant or Lender has paid or has committed to pay a referral agent or broker a fee.

*If checked, answer the following question. If "No" loan is not eligible.*

A Form 159(7a) has been or will be completed, signed by all parties as required, and kept in lender's file. In addition, any fees identified on Form 159 (7a) were to third parties other than the lender. (Under ARC, the lender cannot charge the Applicant packaging fees.) YES \_\_\_ NO \_\_\_

\_\_\_ Applicant has paid or will be paying to Lender any fees, including but not limited to, points, bonus points, prepayment penalties, brokerage fees, fees for processing, origination, or application, costs of securing or obtaining collateral, and out of pocket expenses. *If checked, loan is not eligible.*

**Conflict of Interest**

*SBA may not provide financial assistance to an applicant where there is any appearance of a conflict of interest on the part of SBA or the Lender.*

All the following statements must be answered as "true" for the loan request to be submitted under this program.

**Conflict of Interest regarding the applicant:**

I have reviewed the Applicant's responses regarding conflicts of interest on the SBA Form 2315, America's Recovery Capital (ARC) Borrower Information Form, and am not aware of any information that would indicate that any of the responses are false. TRUE \_\_\_

If an Associate of the small business or member of any Associate's household is a GS-13 or higher government employee or a Major or Lieutenant Commander or higher in the military, the small business applicant has submitted to the Lender a statement of no objection by the pertinent government department or military service. TRUE \_\_\_

Conflict of Interest regarding the lender:

(Associate of a Lender is an officer, director, key employee, or holder of 20 percent or more of the value of the Lender's stock or debt instruments.)

- No Lender or Associate of Lender has a real or apparent conflict of interest with Applicant, any of Applicant's Associates, or any of the close relatives of Applicant's Associates. TRUE\_\_\_\_
- No Lender or Associate or close relative of an associate of the lender has a significant direct or indirect financial or other interest in the applicant, or has had such an interest within 6 months prior to the date of the application. TRUE\_\_\_\_
- No Associate of a Lender is incarcerated, on parole, or on probation or is a convicted felon or has an adverse final civil judgment (in a case involving fraud, breach of trust, or other conduct) that would cause the public to question the Lender's business integrity. TRUE\_\_\_\_
- No Lender or any Associate of Lender has accepted funding from a source that restricts, prioritizes, or conditions the types of small businesses that Lender may assist under an SBA program or that imposes any conditions or requirements upon recipients of SBA assistance inconsistent with SBA's loan programs or regulations. TRUE\_\_\_\_
- None of the Loan proceeds will directly or indirectly finance purchase of real estate, personal property or services from Lender or an Associate of Lender. TRUE\_\_\_\_
- Neither the Applicant, an Associate of Applicant, close relative nor household member of an Associate of Applicant is required to invest in Lender. TRUE\_\_\_\_
- None of the proceeds of the loan will be used to acquire space in a project for which lender has issued a real estate forward commitment. TRUE\_\_\_\_

**ATTACH SHEET FOR COMMENTS REGARDING ANY OF ABOVE ANSWERS THAT REQUIRE EXPLANATION OR REGARDING ANY OTHER RELEVANT ELIGIBILITY ISSUES.**

**Lender hereby certifies that the above information is true and correct, to the best of its knowledge, and that it has exercised due diligence to obtain the true and correct information. Lender is aware and acknowledges that SBA review of this form is a quick look at eligibility intended to provide limited protection to SBA and the lender from making an ineligible loan on which SBA could not honor its guarantee and that if an SBA loan number is assigned and SBA later learns that the loan is not eligible, SBA still may deny liability on its guarantee.**

**Lender Signature:** \_\_\_\_\_

**Date**\_\_\_\_\_

**Typed Name and Title:** \_\_\_\_\_

NOTE: According to the Paperwork Reduction Act, you are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. The estimated burden for completing this form, including time for reviewing instructions, gathering data needed, and completing and reviewing the form is 10 minutes per response. Comments or questions on the burden estimates should be sent to U.S. Small Business Administration, Chief, AIB, 409 3rd St., SW, Washington DC 20416. **PLEASE DO NOT SEND FORMS TO THIS ADDRESS.**