

Dakota Certified Development Corporation's Disclosure Statement Information about the U.S. Small Business Administration (SBA) 504 Loan Program

The SBA 504 loan program offers eligible small businesses a way to help finance expansion projects using long-term, fixed-rate financing. A 504 loan, offered in partnership with a conventional loan from a participating lending institution, is able to provide a small business with up to 90% of a project's total financing requirements.

The SBA relies on the services of a "certified development company" (CDC) like Dakota Certified Development Corporation (DCDC), to package, coordinate, fund and service SBA 504 loans. Dakota Certified Development Corporation (DCDC) provides small businesses with access to the SBA 504 loan program in a territory encompassing the whole state of North Dakota together with some border counties in Minnesota.

This Disclosure Statement highlights routinely encountered issues associated with the 504 loan program and is intended for informational purposes only. It is not meant to be a complete listing of all relevant policies/ requirements.

1. NO REPRESENTATIONS

The funding of a SBA 504 loan is subject to satisfactory compliance with the terms and conditions set forth in a loan commitment document known as an SBA Authorization and Debenture Guarantee. By signing this Disclosure Statement, a small business applicant acknowledges that he / she has not relied upon any representation made by DCDC and / or its agents, and that DCDC and / or its agents have made no representations or promises to the applicant and its agents regarding a formal DCDC or SBA approval of a loan or of qualifications to receive a loan through the SBA 504 loan program.

2. TWO STAGE PROCESS

There are two distinct stages involved with securing funding under the SBA 504 loan program. An "application" (the basis of this information package) and a "funding"-a 504 funding occurs when a project is complete and final costs are all disbursed. This requires a partner bank lender to provide a short-term bridge or construction loan equivalent in value to the SBA 504 loan while documents are prepared and submitted to the bond market in New York for the actual SBA 504 loan funding.

3. INTEREST RATES

DCDC will sell a "debenture" (= a bond) to provide the SBA 504 financing, which can be up to **40%** of the identified total project cost for the proposed project. A participating bank lender typically provides financing for **50%** of the total project cost. SBA 504 program debentures are sold once each month on the New York market. At the time of sale, a **FIXED INTEREST RATE** will be assigned to that debenture. However, this fixed interest rate will not be set for a small business borrower until their specific debenture is funded and sold.

4. ELIGIBLE PROJECT COSTS

For the purposes of identifying and calculating the "total project cost" for an expansion project, expenditures on the following items are considered ELIGIBLE COSTS under the SBA 504 program:

- Purchase of land and building(s);

- Building improvements and construction costs;
- Related project expenditures, e.g. appraisal, engineering, architectural and / or any environmental reporting costs;
- Construction interest and any associated interim loan fees;
- Purchase of equipment and machinery.

5. MAXIMUM / MINIMUM LOAN AMOUNTS

As a general rule, the maximum share of a total project that can be financed under the SBA 504 program is limited to 40% of the total eligible costs, up to a maximum of \$1,500,000, OR, if the proposed project meets SBA's Public Policy criteria objectives (see item 8, below), 40% of the total eligible costs, up to a maximum of either \$2,000,000 or \$4,000,000. The minimum loan amount available is \$25,000. In every case, the SBA 504 loan may not be larger than the partner bank lender's loan.

6. LOAN TERMS

SBA 504 financing is usually provided through the sale of a 20 year, fixed interest rate debenture. A 10 year fixed rate debenture is also available. Expansion projects only involving the purchase of machinery or equipment with a useful life of at least ten years, are typically financed through the sale of the 10 year fixed rate debenture.

7. LEASING EXCESS SPACE POLICY

If an expansion project involves the acquisition of an existing building, a small business applicant(s) must occupy at least 51% of the total building space and SBA 504 program proceeds may not be utilized to tenant-finish any portion of the building not being occupied by that small business. On an expansion project involving new construction, the small business applicant(s) must initially occupy 60% of the total building space, intend to 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. As for an existing building project, 504 loan proceeds may not be utilized to tenant-finish any portion of the building not being initially occupied by the small business applicant(s).

8. ECONOMIC DEVELOPMENT OBJECTIVES

The overall objective of the SBA 504 program is to assist small businesses create wealth for themselves and their communities. As indicators of this, DCDC will consider how many "job opportunities" might reasonably be created by a small business

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within two years of receiving SBA 504 funds and / or whether a proposed project meets one of either the SBA Community Development or Public Policy objectives. SBA Community Development objectives include: improving, diversifying or stabilizing a local economy; stimulating other business development; bringing new income into a community; and, assisting businesses in labor surplus areas. SBA Public Policy objectives are met when the eligible small business applicant is: (1) a woman-owned business; (2) a minority-owned business; (3) a veteran-owned business; (4) a rural-based business; (5) an exporter; (6) a business locating / located in a economic enterprise zone; OR, (7) a business re-structuring because of federally mandated policies or federal budget cutbacks. A special Public Policy objective exists for small US-based manufacturing firms. If a regular Public Policy goal is met, the maximum loan amount under the SBA 504 loan program is increased to \$2,000,000. For small manufacturing firms, the maximum SBA 504 loan amount is \$4,000,000.

9. REAL ESTATE OWNERSHIP

A passive, single purpose real estate holding entity (in the jargon of SBA, an Eligible Passive Concern or 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 (= OC) will be required as part of documents collected prior to the disbursement of SBA 504 loan proceeds. In these situations, although the borrower is a passive real estate holding company, the SBA 504 loan is being made on the demonstrated strength of the active OC, which must be either a co-borrower or guarantor on the loan. It is possible for SBA 504 program funds to be used to help finance projects involving multiple, unrelated eligible small business operating companies.

10. SIZE ELIGIBILITY REQUIREMENTS

A small business applicant, together with its affiliates (an affiliation occurs when one concern controls or has the power to control the other), generally may not have a tangible net worth in excess of \$8.5 million, and, may not have an average net income after taxes in excess of \$3.0 million (two year average). Some exceptions are allowed to this general rule.

11. "EXCESS" PERSONAL LIQUIDITY TEST

If all the individuals holding a 20% or more ownership interest in a business applicant(s), have collective "excess" personal liquid assets, they may be asked to inject some of these liquid assets into a project before being eligible to participate in the SBA 504 program. As a general rule, on, for example, a \$1,000,000 financing project, if the 20%+ owners collectively have more than \$1,000,000 in available cash plus publicly traded shares or bonds (i.e. securities easily converted to cash), they will be asked to inject the excess amount into the project and reduce the SBA 504 loan portion accordingly.

12. PERSONAL/CORPORATE GUARANTEES

Personal guarantees are required from EVERY person or entity owning 20% or more of an eligible small business applicant(s) or any EPC owning any of the project real estate, machinery or equipment.

13. LIFE INSURANCE

In rare circumstances, the SBA may require as a condition of approval, an acknowledged collateral assignment of key-person life insurance on the owner(s) of the business applicant(s). This requirement is usually waived for firms with a demonstrated track record and a proven succession plan.

14. PREPAYMENTS OF SBA 504 LOANS

A small business may pay-off a SBA 504 loan in full at or prior to a scheduled maturity date, but will incur a prepayment premium over the first half of the life of the SBA 504 loan. This premium penalty declines each year. Partial or additional payments may NOT be made under the program.

15. SBA 504 LOANS MAY BE ASSUMED

All SBA 504 loans are fully assumable. The same size standards / eligibility considerations do not necessarily apply in situations where a 504 loan is being assumed. However, applicants will need to be qualified and the SBA assesses a 1.0% fee on the outstanding indebtedness for all assumption actions.

16. PRIOR BANKRUPTCIES

Full disclosure of prior bankruptcies is required. DCDC reserves the right to withhold approval of applications where a business or its principals have taken prior bankruptcy protection from creditors

17. PRIOR CRIMINAL OFFENSES / ARRESTS

A prior criminal arrest or conviction will not necessarily disqualify an individual from receiving financing under the SBA 504 loan program. However, full disclosure is required. If any individual positively answers questions 7, 8 or 9 on the included Statement of Personal History form, that individual will be required to submit a NOTARIZED AFFIDAVIT explaining the reason for the positive answer(s) along with a statement that "no occurrences have since taken place." Copies of all relevant court documentation relating to the event(s) will also need to be provided. A copy of the required affidavit will be provided on request.

18. LEGAL PERMANENT RESIDENTS

SBA 504 loans are available to businesses owned by persons who are not citizens of the United States. However, the processing procedures, terms and conditions may vary, depending upon the residency status assigned by the US Citizen and Immigration Service division of Homeland Security. Because fraudulent immigration documents are a serious problem, the status of each Legal Permanent Resident must be verified by DCDC as part of the loan application process. Accordingly, applicants seeking SBA 504 financing who are not

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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 US Citizen and Immigration Service to release information regarding my immigration status to Dakota CDC."

19. CHILD SUPPORT COMPLIANCE

No principal who owns at least 50% of the ownership or voting interest in a company applying for financing under the SBA 504 program, may be delinquent more than 60 days under the terms of any (1) administrative order, (2) court order, or (3) repayment agreement that requires payment of child support. A certification of compliance will be required before any funds will be disbursed under the SBA 504 program.

20. TRANSACTION COSTS / FEES

The following fees relate to all SBA 504 loan application:

Out of Pocket...

- A deposit of **\$1000** is required at the time DCDC accepts a loan application. This deposit less any DCDC costs is returned to the applicant following funding of the SBA loan. If DCDC or SBA declines the application, the deposit less any DCDC costs will be returned. If Applicant abandons the application or instructs DCDC to withdraw its application and/or terminate this Agreement, DCDC may retain all or a portion of the Loan Packaging Deposit (if no less than ten (10) hours have been spent by DCDC on this project.)
- Miscellaneous recording costs and title insurance fees associated with a SBA 504 loan may be financed as part of the SBA 504 loan or paid by the small business at the time of the loan closing. If a debenture is not funded for any reason, an applicant is responsible for reimbursing any legal or title costs incurred on their behalf.

Included in Loan Proceeds...

- The 504 loan program does not receive any taxpayer support. Small businesses participating in the program pay those costs associated with accessing, processing, selling, funding and underwriting the sale of the debenture on the New York market that is used to provide SBA 504 loan program funds. These costs equal 2.25% of the 504 portion of the financing project and are usually included in loan proceeds so no out-of-pocket expenses result.
- A 'Loan Documentation Closing Fee' is charged to the borrower for all the legal costs associated with the preparation and execution of the documents that must be submitted to the bond people in New York. This fee of \$950 is usually also included in the gross debenture amount financed.

Included in SBA Interest Rate...

- The monthly payment a small business pays on a SBA 504 loan is inclusive of the cost of funds (= the debenture note rate) plus three statutory on-going fees associated with the operation of the 504 program. These fees consist of a payment that goes to the SBA, a servicing fee that goes to Dakota CDC, and, a fee

that goes to a central servicing agent in New York (who collects the funds and provides them to the owner of the debenture). For FY 2007, these minimum three statutory fees add to 0.746%. These fees are based on the outstanding principal balance of the debenture, adjusted every five years on the anniversary date of the debenture note. Dakota CDC ALWAYS charges the minimum allowed statutory fees to small business borrowers.

21. PARTICIPATING LENDER / BANK FEE

A one time bank "Participation Fee" of 0.5% on any new deed of trust senior to the SBA 504 deed of trust, is due at closing and payable to the SBA by the participating partner lender.

22. ENVIRONMENTAL REPORT

Prior to the final disbursement of funds, evidence must be provided that a project property is free and clear of environmental hazards. Either an EDR report plus an environmental questionnaire, a Transactional Screening Analysis, a Phase I OR a Phase II Environmental report may be required. In all cases, the environmental report should be addressed to the SBA / Dakota CDC.

23. APPRAISAL

An appraisal will be required on all projects involving the purchase or construction of real estate. All appraisals must be ordered by the participating partner lender and performed by a state-certified appraiser must be addressed to the SBA / CDC.

24. FLOOD / EARTHQUAKE HAZARDS

Flood insurance must be purchased if any building or equipment acquired, installed, improved or constructed with the proceeds of the loan, is located in a special flood hazard area. Newly constructed facilities must be constructed to conform with the National Earthquake Hazards Reduction Program

25. START-UP BUSINESSES

If an applicant small business operating company (OC) has been in operation for two years or less, it must invest / inject a minimum 15% share of the eligible project costs, reducing the SBA 504 participation to a maximum of 35% of the total project costs. A start up business must include a business plan.

26. SINGLE PURPOSE BUILDING

If a project involves a limited or single-purpose structure, as defined by the appraiser, an eligible small business must invest / inject a minimum 15% share of eligible projects costs, reducing SBA participation to a maximum of 35%. If the project involves BOTH a start-up business and a limited purpose building, a small business must invest / inject a minimum 20% share of eligible projects costs, reducing the SBA 504 loan share to a maximum of 30%.

27. APPROVAL PROCESS

DCDC shall assist Applicant to investigate the feasibility of obtaining financing for an SBA Loan under the Small Business Investment Act of 1958, as amended. CDC shall examine and

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review Applicant's financial history and condition to determine whether a SBA Loan application would be appropriate at this time. After its investigation and review, DCDC shall begin processing an application for an SBA Loan for Applicant if it determines in its sole discretion that:

- (1) Applicant is within the CDC's and SBA's eligibility criteria;
- (2) the proposed project is likely to be approved by the SBA;
- (3) all other requisite elements to complete the project under this program can also be paid or financed.

If these conditions are satisfied and DCDC agrees to make application on behalf of Applicant for an SBA Loan, Applicant and DCDC shall prepare and submit to SBA, a SBA loan application with all required supporting exhibits and documentation (the Loan Applicant Package).

Once all documents have been submitted to DCDC, the application approval process may take from **one to three weeks to generate a formal approval.**

28. INTERIM AND CONSTRUCTION FINANCING

Due to the nature of SBA 504 loans, interim or construction financing is typically required to cover the period of time between the approval of a financing application and the sale of a debenture on the New York market to fund the SBA 504 share of the financing project

29. TIMING ON FUNDING OF SBA DEBENTURES

Once all the necessary SBA loan documents have been executed, there is a minimum six week period until a SBA loan is actually funded. SBA 504 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 partner lending institution on the same day the debenture funds.

30. METHOD OF DEBENTURE PAYMENTS

Monthly loan payments on the SBA 504 portion of a financing project 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 the month immediately following the actual sale / funding of a debenture.

31. EQUAL CREDIT OPPORTUNITY

Dakota CDC 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, because all or part of the applicant's income derives from any public assistance program, or, because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

32. IMPORTANT INFORMATION ABOUT NEW IDENTIFICATION PROCEDURES WITH SBA 504 LOANS

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all certified development companies like Dakota CDC to obtain, verify, and record information that identifies each person who applies for a SBA 504 loan. What this means is that when you apply for a SBA 504 loan, DCDC will ask for your name, address, date of birth, and other information that will allow us to identify you. We will also ask to see your driver's license or other identifying documents.

32. INDEMNIFICATION / NO ADDITIONAL PROVISIONS

A small business applicant(s) will indemnify and hold Dakota CDC and/or its agents harmless from any and all loss or injury, including reasonable attorney fees, resulting or arising from failure by the applicant to receive such loan, and/or any loss or liability to applicants or the business of the applicant. All parties agree that there are no other promises, terms, or agreements (oral or written) between Dakota CDC and the undersigned, and that the SBA 504 program's rules and fees are subject to change at any time.

The undersigned acknowledges that he/she understands the provisions described within this Disclosure Statement.

Company: _____

Signed: _____

Name: _____

Title: _____

Date: _____

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