

INTERMEDIARY LENDING PILOT (ILP) PROGRAM

Frequently Asked Questions and Answers

General Program Questions

Question: What are the loan loss reserve requirements for ILP Intermediaries?

Answer: An ILP Intermediary must maintain a loan loss reserve of not less than 5% of the principal balance of all outstanding loans to small businesses made from the ILP Relending Fund (see 13 CFR § 109.350). Thus, the reserve is not based on the ILP Loan to the Intermediary, but rather on the loans made by the ILP Intermediary to small businesses under the ILP program. The loan loss reserve may be funded using the ILP Intermediary's own funds, interest income from loans made to small businesses or proceeds from the application or origination fees. The ILP Intermediary may not use the ILP Loan proceeds to fund the loss reserve.

Question: Must an ILP Intermediary fund its loan loss reserve upon receipt of its ILP Loan from SBA?

Answer: No, an ILP Intermediary is not required to fund its loan loss reserve upon receipt of the ILP Loan. As stated in the previous Q&A, the loan loss reserve is based on the loans made to small businesses under the ILP program, not on the ILP Intermediary's loan from SBA. An ILP Intermediary must ensure that its loan loss reserve is equal to 5% of the total principal balance of outstanding loans made to small businesses under the ILP program. An ILP Intermediary could meet this requirement by funding a loss reserve up front and monitoring compliance with the 5% requirement, or it could contribute to the loss reserve on a loan by loan basis as loans are made.

Question: Is the term of the loan from SBA to the ILP Intermediary 18 or 20 years?

Answer: The term of an ILP loan is 20 years from the date of the first disbursement. Repayments are deferred for 2 years; therefore payments are made over an 18 year period.

Question: Is the interest on the loan from SBA to the ILP Intermediary simple or compound?

Answer: During the two year deferral period, interest accrues on the total disbursed amount only (simple interest). Accumulated interest from prior periods is not used in calculations for the following periods. At the end of the deferral period, the total amount of accrued interest is added to the total disbursed amount and the sum of the two is amortized over the remaining 18 years.

Question: May ILP Intermediaries make loans to cooperatives under the ILP program?

Answer: The ILP regulations state that consumer and marketing cooperatives are not eligible; however, producer cooperatives are eligible (subject to the restrictions described below). (13 CFR § 109.400(b)(12)). This provision is based on an identical regulation in SBA's 7(a) loan program. This regulation was intended to prevent financing to cooperatives that do not function as small businesses open to the public.

A producer cooperative is eligible for SBA financing if: (1) it is engaged in a business activity, (2) the purpose of the cooperative is to obtain financial benefit for itself as an entity and its members in their capacity as businesses, and (3) each member of the cooperative is small. (SBA Standard Operating Procedure 50 10 5(C), p109).

Worker cooperatives, in which the employees of the small business cooperatively own the company, are eligible for loans under the ILP program if they meet the requirements for eligible small business concerns in 13 CFR § 109.400.

Question: May an ILP Intermediary use staff from a parent or affiliate organization to run the ILP program?

Answer: Yes, an ILP Intermediary may use staff from a parent or affiliate organization. However, an ILP Intermediary must have the required one year of experience making loans to small businesses in order to be eligible to become an ILP Intermediary.

Question: Are matching funds required?

Answer: No, ILP Intermediaries are not required to contribute any matching funds as a condition of receiving ILP Loans. However, as described in detail above, ILP Intermediaries must maintain a loan loss reserve that may not be funded from ILP Loan proceeds.

Question: May ILP Intermediaries make loans to non-profit child care centers under the ILP program?

Answer: No, non-profit child care centers are not eligible to receive loans to ILP Intermediaries under this program; however, for-profit child care centers would be eligible.

Question: May ILP loan funds be used as a guaranty for other loans?

Answer: No, ILP loan funds may only be used to make loans to small businesses.

Question: May ILP loan funds be used to make SBA-guaranteed loans, such as 7(a) or Community Advantage loans?

Answer: No, ILP loan funds may only be used to make direct loans to small businesses under the ILP program. ILP Intermediaries must not commingle ILP loan funds with any other programs, including other SBA programs.

Question: May an ILP Intermediary use ILP Loan funds as part of a multi-party financing package?

Answer: SBA does not restrict the use of multi-party financing packages under the ILP program. The amount of the small business loan funded from the ILP Relending Fund must not exceed \$200,000 and the loan must comply with all other ILP Program Requirements.

Question: What does the credit elsewhere documentation consists of?

Answer: The credit elsewhere test for the ILP program is very similar to the credit elsewhere tests used in SBA's other programs. The ILP Intermediary must document in the loan file why the borrower is unable to obtain credit elsewhere at a comparable interest rate or term. Examples of this documentation may include a self-certification letter from the borrower that they were either denied a loan or are unable to obtain a comparable interest rate from another lender or an explanation that the borrower's limited collateral, credit score, etc., prevents it from obtaining traditional bank financing. The ILP Intermediary is not required to apply the personal resources test used in the 7(a) program. Additionally, the ILP program does not require that small business borrowers provide a denial letter from another lending institution, as is required in the Microloan program for loans over \$20,000.

Question: Do ILP Intermediaries have to make loans of more than \$50,000?

Answer: No, ILP Intermediaries are not required to make loans of more than \$50,000. However, SBA will evaluate an applicant's experience in making small business loans between \$50,000 and \$200,000 during the ILP Intermediary selection process.

Question: If a loan goes south who is liable?

Answer: The ILP Intermediary is responsible for repayment of the ILP loan to SBA. The ILP Intermediary uses the funds from the ILP Loan to make direct loans to small businesses, which are not guaranteed by SBA. The ILP Intermediary must ensure that it has adequate liquidation, collection, and loan loss reserve policies and procedures in place and/or other resources available so that it can continue to

make payments on the ILP loan in the event that one or more of the underlying loans to small businesses default.

Question: May ILP Intermediaries charge small business borrowers for legal/attorney time for document prep, etc?

Answer: ILP Intermediaries may charge small business borrowers for the reasonable direct costs of liquidation, necessary out-of-pocket expenses (such as filing or recording fees), a late payment fee (not to exceed 5 percent of the scheduled loan payment), and reasonable application and origination fees.

The application and origination fees are subject to a maximum total fee cap: the total amount of application and origination fees charged must not exceed 1% of the amount of the loan to the small business.

Allowable out-of-pocket expenses are the same as those permitted in the 7(a) program. They include all direct costs, such as filing or recording fees, photocopying, delivery charges, collateral appraisals, and other direct charges related to loan closing. Only legal/attorney time for document preparation directly associated with the closing of the loan may be included in the out-of-pocket expenses.

ILP Intermediary Eligibility Questions
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Question: My organization does not have 501(c)(3) status. Is my organization eligible to become an ILP Intermediary?

Answer: Eligibility is not limited to 501(c)(3) organizations. ILP Intermediaries are required to have an effective ruling letter from the U.S. Internal Revenue Service granting tax exemption under section 501 of the Internal Revenue Code.

Question: My organization is not a CDFI, SBA CDC, or a community development corporation. Is my organization eligible to become an ILP Intermediary?

Answer: Community development corporations, CDFIs, and SBA CDCs are examples of types of private nonprofit entities; however, an applicant is not required to be designated as one of these types of entities in order to be eligible to become an ILP Intermediary.

An ILP Intermediary must be a private, nonprofit entity (other than an existing SBA Microlender) with at least one year of experience making and servicing loans to startup, newly established, or growing small businesses. A private, nonprofit entity is a non-governmental agency or entity that currently has an effective ruling letter from the U.S. Internal Revenue Service granting tax exemption under section 501 of the Internal Revenue Code. Please see the ILP

Program Announcement, available at <http://www.sba.gov/content/intermediary-lending-pilot>, for further detail on eligibility requirements.

Question: Are venture capital funds eligible to become ILP Intermediaries?

Answer: To be eligible to become an ILP Intermediary, an organization must be a private, non-profit entity with at least one year of experience making and servicing loans to startup, newly established, or growing small businesses. A venture capital fund that is a for-profit organization would not be eligible for the ILP program. In addition, a venture capital fund that makes equity investments in small businesses, but does not make loans, would not be eligible for the ILP program.

Question: My organization does not have the required 1 year of experience making loans to small businesses, but my staff has many years of small business lending experience at other organizations. Is my organization eligible to become an ILP Intermediary?

Answer: No. The one year experience requirement applies to the applicant organization, not to the employees of the organization. This means that the organization itself must have at least one year of experience in making and servicing loans to small businesses; applicant organizations may not impute experience from current employees that have lending experience in other organizations.

Question: One of the requirements states that applicants must have at least one year of lending experience to be eligible to apply. Does this have to be within recent years?

Answer: An ILP Intermediary must have at least one year of successful experience making and servicing loans to startup, newly established, or growing small businesses. SBA does not require that the one year of experience be recent experience; however, an applicant's overall lending history will be evaluated during the application selection process, including in particular small business loans made during the last five years.

Application Questions

Question: When will SBA begin accepting applications for participation in the ILP program?

Answer: The application period opened on May 2, 2011, with the publication of the ILP NOFA in the Federal Register. Completed applications must be received by the Chief, Microenterprise Development Branch in the Office of Financial Assistance, by 5 p.m. on June 10, 2011. Applications received after that date and time will not be considered. Due to the required irradiation of regular mail prior to its delivery to Federal offices in the Washington, DC area, organizations are

encouraged to use a “next day” or “overnight delivery” method to ensure the timely receipt of materials. Please see the ILP Program Announcement for details on submitting applications.

Question: **The application includes a Question 3.13 (a) and 3.13 (c), but no “b”. Should there be a Question 3.13 (b)?**

Answer: Question 3.13 is misnumbered. There is no question (b).

Question: **On Question 4.3, part (a) speaks to operating support for the applicant and part (b) asks about cost of capital. Does the term “cost of capital” refer to lending capital?**

Answer: In this question, cost of capital actually refers to the cost of operating capital. For the ILP program, the cost of lending capital is 1%. Therefore, we are instead asking about the cost of capital to support your operations.

Question: **Question 4.4 asks about costs of the ILP program. The program regulations state that the applicant may earn a reasonable spread on the ILP cost of funds and may charge a limited amount of fees as well to the borrower. It is implied that these earnings could cover the cost of operating the program (which is how most lenders cover costs). Is this what is meant by this question or is it trying to get to something else?**

Answer: Question 4.4 asks how the organization intends to cover the costs of the program. In other words, will the limited fees and interest rate spread cover the costs of administering the program or will the organization rely on other funds not associated with the ILP program to help cover the costs?

Question: **Will SBA preference local lenders over regional lenders?**

Answer: No, the evaluation criteria for selection ILP Intermediaries do not include a preference for local lenders. Please see the ILP Program Announcement for a description of the evaluation criteria.

Question: **Will there be a debriefing for applicants not selected to become ILP Intermediaries?**

Answer: No, SBA does not plan to conduct a debriefing at this time.

Question: **My organization lends in two states. Should I submit two applications?**

Answer: Only one application should be submitted for each organization interested in becoming an ILP Intermediary. An ILP Intermediary’s geographic lending area is not restricted under the ILP program. Furthermore, an organization may not

receive more than one ILP loan; therefore, there is no advantage to submitting multiple applications from the same organization.

Question: Do existing SBA lenders need to submit new documents with the ILP Application for Selection if SBA already has such documents on file (e.g. Statements of Personal History, SBA Form 1081; resumes; organizational documents)?

Answer: Yes, all applicants must submit all documents required by the ILP Application for Selection, even if the applicant is an existing SBA lender. It is important that SBA have up-to-date versions of the required documents.

Question: May I submit some of the attachments after the deadline if I submit the rest of the application on time?

Answer: No, the complete ILP Application for Selection, including all required attachments, must be submitted by the June 10th deadline. SBA will not grant extensions for the submission.

Question: Other SBA programs require the submission of fingerprint cards with the Statement of Personal History (SBA Form 1081) submission. Are fingerprint cards required with the Form 1081s required in the ILP Application for Selection?

Answer: No, fingerprint cards are not required in the ILP Application for Selection.

Question: The Statement of Personal History (SBA Form 1081) uses the term “Non-Bank Lender.” What does that mean?

Answer: As used in the first two blocks (Name and Address), and questions 7 and 16, “Non-Bank Lender” refers to the organization applying to become an ILP Intermediary.

As used in questions 13, and 17, however, “Non-Bank Lender” refers to an SBA lender that is not a Federally-regulated financial institution. Such lenders are also called “SBA Supervised Lenders,” and include Small Business Lending Companies (SBLCs) and Non-Federally Regulated Lenders (NFRLs) that make SBA 7(a) guaranteed loans. Thus Question 13 asks whether the individual filling out the form is associated any SBA Supervised Lenders, SBA Certified Development Companies, or SBA Microloan Intermediaries. Question 17 asks whether any business directly or indirectly affiliated with the individual filling out the form has borrowed funds from any SBA Supervised Lenders, SBA Certified Development Companies, or SBA Microloan Intermediaries.

Question: When does SBA expect to name the selected ILP Intermediaries?

Answer: SBA anticipates selecting ILP Intermediaries in July or August 2011.