(b) Loan proceeds may not be used to:

(1) Refinance indebtedness which you incurred prior to the disaster event;

(2) Make payments on loans owned by another federal agency (including SBA) or a Small Business Investment Company licensed under the Small Business Investment Act;

(3) Pay, directly or indirectly, any obligations resulting from a federal, state or local tax penalty as a result of negligence or fraud, or any non-tax criminal fine, civil fine, or penalty for non-compliance with a law, regulation, or order of a federal, state, regional, or local agency or similar matter;

(4) Repair physical damage; or

(5) Pay dividends or other disbursements to owners, partners, officers or stockholders, except for reasonable remuneration directly related to their performance of services for the business.

PRE-DISASTER MITIGATION LOANS

SOURCE: Sections 123.400 through 123.407 appear at 64 FR 48276, Sept. 3, 1999, unless otherwise noted.

§ 123.400 What is a pre-disaster mitigation loan?

Congress has authorized a pilot program for 5 fiscal years from 2000 through 2004 for SBA to make low interest, fixed rate loans to small businesses to use mitigation measures in support of Project Impact, a formal mitigation program established by the Federal Emergency Management Agency (FEMA).

§ 123.401 What types of mitigating measures are eligible for a pre-disaster mitigation loan?

Mitigation means specific measures taken by you to protect your real property or leasehold improvements from future disasters in Project Impact communities. If you are a landlord, the measures must be for protection of property leased primarily for commercial rather than residential purposes, to be determined on a comparative square footage basis. Additionally, SBA will consider providing a pre-disaster mitigation loan for relocation if your commercial real property is located in a SFHA (Special Flood Hazard Area) and you relocate outside the SFHA but remain in the same Project Impact community. If the mitigation measures protect against a flood hazard, the applicant small business must be located in an existing structure in a SFHA. The local Project Impact coordinator will confirm that your proposed project is in accordance with specific Project Impact priorities and goals of that community. SBA will verify that the cost estimate is reasonable to accomplish each project to determine if the project is likely to accomplish the stated desired mitigation results. SBA verification and subsequent loan approval are not a guarantee that the project will prevent damages in future disasters.

§ 123.402 What businesses are eligible to apply for pre-disaster mitigation loans?

Each State, the District of Columbia, Puerto Rico, and the Virgin Islands have at least one FEMA Project Impact community. Only those small businesses located in Project Impact communities are eligible to apply for a pre-disaster mitigation loan. Your small business may be a sole proprietorship, partnership, corporation, limited liability company, or other legal entity recognized under State law. Your small business must have been in existence for at least one year prior to submitting an application for this loan. Your business (together with its affiliates) must be small (as defined in part 121 of this chapter) as of the date SBA accepts the application for processing, and SBA must also determine that the business, its affiliates and its owners do not have the financial resources to fund the mitigation measures without undue hardship.

§ 123.403 When would my business not be eligible to apply for a pre-disaster mitigation loan?

Your business is not eligible for a pre-disaster mitigation loan if it, together with its affiliates, fits into any of the categories in §§ 123.101, 123.201, and 123.301.