

**State Small Business Credit Initiative (SSBCI) Loan Participation Program**  
**Business Development Corporation of South Carolina (BDC)**  
**Eligibility Requirements**

**Borrower Requirements**

For purposes of the SSBCI (State Small Business Credit Initiative) Loan Participation Program, Borrower must meet the following eligibility requirements:

1. Borrower is a for-profit corporation, limited liability company, partnership, joint venture, sole proprietorship, state-designated charitable, religious, or other non-profit or eleemosynary institution, government-owned corporation, consumer or marketing cooperatives, or faith-based organization and,
2. borrower is an entity with 500 or less employees and,
3. the loan proceeds will be used for a business purpose in the State of South Carolina. Business purpose includes, but is not limited to, start-up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is **not for passive real estate investment purposes** (see “Additional Considerations” for further definition of “passive real estate investment”). The definition of business purpose excludes activities that relate to acquiring or holding passive investments such as commercial real estate ownership, the purchase of securities; and lobbying activities as defined in Section 3 (7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.
4. The proceeds of the Loan will not be used:
  - a. to repay delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority;
  - b. to repay taxes held in trust or escrow (e.g., payroll or sales taxes);
  - c. to reimburse funds owed to any owner, including any equity injection or injection of capital for the business’ continuance;
  - d. to purchase any portion of the ownership interest of any owner of the business; or
  - e. to refinance a loan previously made to the Borrower by the Lender (see “Additional Considerations” below for further clarification);
5. The Borrower is not:
  - a. an executive officer, director or principal shareholder of the Lender or a company which controls the Lender, or a subsidiary or affiliate of the Lender;
  - b. a member of the immediate family of an executive officer, director or principal shareholder of the Lender or a company which controls the Lender, or a subsidiary or affiliate of the Lender; nor an entity controlled by an executive officer, director or principal shareholder of the Lender or a company which controls the Lender, or a subsidiary or affiliate of the Lender; nor a member of the immediate family of an entity controlled by an executive officer, director or principal shareholder of the Lender or a company which controls the Lender, or a subsidiary or affiliate of the Lender.
  - c. a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the

- Borrower and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the Borrower;
- d. a business that earns more than half of its annual net revenue from lending activities; unless the Borrower is a non-bank or non-bank holding company certified as a Community Development Financial Institution (CDFI);
  - e. a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants;
  - f. a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted, including the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution; or
  - g. a business engaged in gambling enterprises, unless the Borrower earns less than 33 percent of its annual net revenue from lottery sales

### **Lender Requirements**

As to each Loan in which BDC purchases a Participation, the Lender agrees that it will have determined to the best of its knowledge and belief that all of the following are true and correct:

1. No principal of the Borrowing entity has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, “principal” is defined as “if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent;
2. The Lender is in material compliance with all federal and state laws, rules, and regulations pertaining to the making of loans (including 31 C.F.R. § 103.121);
3. The Borrower is ready to implement the Project and has the financial ability to carry out the Project;
4. The Borrower is responsible and creditworthy;
5. The Loan Documents are in an amount and form, and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, default remedies, additional security, and other matters, adequate to protect the State’s interest in ensuring repayment;
6. Guarantors are responsible and creditworthy.

### **Additional Eligibility Considerations:**

**Passive Real Estate Investment** – SSBCI Program is intended for owner-occupied real estate loans, rather than passive real estate investments. For purposes of this program, “owner-occupied” shall be defined as at least 60% owner-occupied for new construction, and at least 51% owner-occupied for existing real estate. Real Estate Investments that do not meet the minimum owner-occupancy requirements are not permissible under the SSBCI Program.

**Relationship to Small Business Administration (SBA) Lending Programs** - Under the SSBCI Program, lenders may not enroll the unguaranteed portions of SBA-guaranteed loans without the express, prior written consent of the Treasury.

**Lender Capital at risk** - Financial institution lenders are required to maintain at least a 20% interest in the loan at all times. This requirement prohibits lenders from selling additional participations in the loan, so that the lender’s own capital would represent less than 20% of the outstanding balance of the loan. Additionally, BDC’s percentage of the outstanding balance of the loan shall never exceed the BDC participation percentage as stated on the Participation Certificate (Exhibit B of SSBCI Loan Participation Master Agreement).

**Borrower Location** – Loan proceeds must be used for a business purpose in the State of South Carolina. However, borrower may have facilities in other states, so long as the primary place of business is in the State of South Carolina.

**Borrower Attestation-** Borrower attests that the project for which the Loan funds are to be used would not be undertaken unless the Loan is provided or the President of BDC determines that it is in the best interests of the State of South Carolina’s economy to provide the loan.

**Lender Attestation-** Lender attests that without BDC's participation, as requested, lender would not be willing to make the loan, and in their opinion the financial assistance requested is not otherwise available on reasonable terms

**Re-Financing Of Existing Bank Debt** – Under terms of the Program, re-financing of an existing bank loan using SSBCI funds is not permissible. However, in some circumstances, re-financing of an existing loan which has matured with a Balloon payment due to the bank may be permissible, if certain requirements are met. Please contact Edwin Lesley or Ryan Barnes at BDC to discuss the specifics of your unique circumstance.