



## **FEE DISCLOSURE FORM AND COMPENSATION AGREEMENT** **For Agent Services In Connection With an SBA Disaster Assistance Loan**

### **POLICIES AND REGULATIONS CONCERNING REPRESENTATIVES AND THEIR FEES**

*Purpose of this form:* Section 13 of the Small Business Act (15 U.S.C. § 642) requires that an SBA loan applicant (“Applicant”) identify the names of persons engaged by or on behalf of the Applicant for the purpose of expediting the application and the fees paid or to be paid to any such person. 13 C.F.R. Section 103.5 requires any Agent to execute and provide to SBA a compensation agreement showing the compensation charged for services rendered or to be rendered to the Applicant or lender in any matter involving SBA assistance. “Agent” includes a loan packager, referral agent, broker, accountant, attorney, consultant or any other party that receives compensation from representing an Applicant or lender in connection with an SBA loan. 13 C.F.R. Part 103 contains the rules governing compensation of Agents in connection with a (either “Disaster” or “an SBA”) loan. These rules may be found at:

<https://www.ecfr.gov/cgi-bin/text-idx?SID=8cb6d33c1c24d7b61b9e97164a7109e3&mc=true&node=pt13.1.103&rgn=div5>

SBA does not require an Applicant to engage the services of any Agent to file an application or close a loan. No fees or compensation will be reimbursed or paid by SBA to any Agent. If an Applicant chooses to employ an Agent, the compensation an Agent charges to and that is paid by the Applicant must bear a necessary and reasonable relationship to the services actually performed and must be comparable to those charged by other Agents in the geographical area. Compensation cannot be contingent on loan approval. In addition, compensation must not include any expenses which are deemed by SBA to be unreasonable or that are prohibited by SBA rules or SOP 50-30. If the compensation is determined by SBA to be unreasonable the Agent must reduce the compensation to an amount SBA deems reasonable, refund to the Applicant any sum in excess of the amount SBA deems reasonable, and refrain from charging or collecting directly or indirectly from the Applicant an amount in excess of the amount SBA deems reasonable. If the compensation is not permitted by SBA rules or SOP 50-30, the Agent must cancel the compensation, or refund to the applicant any portion the Applicant already paid. Violation by an Agent of any of these rules may result in SBA’s suspension or revocation of the Agent’s privilege of conducting business with SBA.

The following are not considered Agents for purposes of this form and, therefore, are not required to complete this form: 1) Applicant’s accountant for the preparation of financial statements or tax returns required by the Applicant in the normal course of business and not related to the loan application; 2) Any professional retained by Applicant for services required by the Applicant in the normal course of business and not related to the application or loan closing; and 3) Any attorney, title company, or escrow company retained in connection with the SBA disaster loan closing. In addition, direct costs associated with document preparation in connection with the loan closing do not need to be reported in this Agreement.

*Instructions for completing this form:* This form must be completed in connection with a loan application if the Applicant has paid (or will be paying) compensation to an Agent in excess of the following amounts: \$500 for a disaster home loan; and \$2500 for a disaster business loan. If the compensation exceeds these amounts, the Agent must also provide an itemization and justification of the services performed.

There must be a separate, completed Agreement for each Agent compensated by the Applicant. If the certifications are made by a legal entity other than an individual (e.g., corporation, limited liability company), execution of the certification must be in the legal entity’s name by a duly authorized officer or other representative of the entity; if by a partnership, execution of the certification must be in the partnership’s name by a general partner.

**Return completed form to:** Disaster Processing and Disbursement Center at 14925 Kingsport Road, Fort Worth, TX 76155-2243 or Fax to 1-202-481-1505

<b>Loan applicant name:</b>
<b>Business Name (if different from Loan Applicant):</b>

System of Records Notification: Information obtained from this form is part of the Agency's Privacy Act Systems of Records (SOR), Disaster Loan Case Files – SBA 20 (and may become part of SBA's System of Records for Suspension and Debarment Files SBA 36".) The information contained in the system of records may be used, disclosed, or referred as a routine matter in certain circumstances, including:

- To the Federal, State, local or foreign agency or professional organization which investigates, prosecutes or enforces violations of statutes, rules, regulations or orders, or which undertakes procurement of goods or services, when SBA determines that disclosure will promote programmatic integrity or protect the public interest.
- To request information from a Federal, State or local agency or a private credit agency maintaining civil, criminal or other information relevant to determining an applicant's suitability for a loan; this may be requested individually or part of a computer match.
- To other Federal agencies to conduct computer matching programs to locate delinquent SBA borrowers who are receiving Federal salaries or benefit payments and programs to identify delinquent SBA borrowers receiving federal salaries or benefit payments. Disclosure will be made if the records indicate the loan is in default, at least 30 days past due or to update a previous disclosure. SBA will make disclosures to obtain repayments of debts under the provisions of the Debt Collection Act of 1982 by voluntary repayment, or administrative or salary offset procedures.

See 74 FR 14890, 14911 (April 1, 2009) for additional routine uses.

**Agent's Agreement and Certifications:** By signing this form, the undersigned Agent agrees that it has not and will not directly or indirectly charge or receive any payment in connection with the application for or making of the SBA loan except for services actually performed on behalf of Applicant and identified in this form. The undersigned Agent certifies that the information provided in this form accurately describes the type of services it has provided to the Applicant and that the compensation described in this form is the only compensation that has been charged to or received from the Applicant or that will be charged to the Applicant for services covered by this form. The undersigned Agent further certifies that neither it nor any of the principals of its organization are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or Agency. **WARNING: False certifications can result in criminal prosecution under 18 U.S.C. § 1001 and other penalties provided under law.**

<b>Type of services Agent provided to applicant:</b>			
<input type="checkbox"/> Loan packaging	<input type="checkbox"/> Financial statements or tax returns prepared specifically for the application	<input type="checkbox"/> Legal services performed specifically for loan closing	<input type="checkbox"/> Other (describe):
<p><b>Total compensation charged to applicant:</b> \$ _____</p> <p>If the compensation exceeds \$500 for a disaster home loan or \$2500 for a disaster business loan, the Agent must attach a separate schedule itemizing 1) services performed, and 2) the <u>hourly rate</u> and the <u>number of hours</u> billed for that service.</p>			
<p><b>Agent Name and Signature:</b> By _____ (Date) _____</p> <p style="text-align: center;">(Signature of agent)</p> <p>_____ (Name of agent – please print) _____ (Phone number of Agent)</p> <p style="text-align: center;">(Business name of agent – please print)</p> <p style="text-align: center;">(Business address of agent including zip code)</p>			

**Applicant's certification:** The undersigned Applicant certifies to SBA that the above representations and amounts are the only amounts paid (or that will be paid) by the Applicant in connection with the services covered by this form and are satisfactory to the Applicant. The Applicant further certifies that a separate compensation agreement (SBA Form 159D) has been executed for all Agents, as defined above, involved with this loan. **WARNING: False certifications can result in criminal prosecution under 18 U.S.C. § 1001 and other penalties provided under law.**

_____	By: _____	_____
(Applicant's name)	(Signature of authorized representative, if applicable)	(Date)
_____	_____	
(Applicant's name -- please print)	(Name of authorized representative -- please print)	

PLEASE NOTE: The estimated burden for completion of this Form 159D is 5 minutes per response. You are not required to respond to this information collection unless it displays a currently valid OMB approval number. Comments or questions on the burden estimate should be sent to U.S. Small Business Administration, Chief, Administrative Information Branch, Washington, D.C. 20416, and Desk Officer for SBA, Office of Management and Budget, New Exec. Office Building, Room 10202, Washington, D. C. 20503. (3245-0201). **PLEASE DO NOT SEND FORMS TO THESE ADDRESSES.**