

Form 159

Current Version Required for use as of November 1, 2018

Fees

- **The amount must be based on hours, rate, and activities ACTUALLY performed**
 - *No standard fees!*
 - *Over \$2,500 – supporting documents to the Fiscal Transfer Agent (FTA)*
 - *Less than \$2,500 retain in file*
- **May be paid by either the Small Business Applicant (“Applicant”) or the SBA Lender**
- **Each service may only be charged for once (e.g., a Lender and third party Agent cannot charge the Applicant for packaging services**
- **SBA reserves the right to review any fees charged to the Applicant**

Monitor what third parties are charging – SBA looks to the SBA Lender for reimbursements to the Applicant if an amount is determined to be unreasonable regardless of who charged.

Prohibited Fees - Samples

- **Costs associated with underwriting the loan, including completion of the SBA Lender's application forms (including Form 1920) and/or the Lender's analysis**
- **“Processing Fees” – akin to charging for underwriting, which is not permitted**
- **Cost of software used to prepare SBA loan documents (this is not considered a direct cost – which is discussed on the next slide)**
- **You may not “average” software costs and allocate it to Applications (e.g., electronic signatures)**

“Out of Pocket Expenses”

- **Do not need to be reported on Form 159**
- **Are necessary expenses that are a result of SBA policy requirements**
- **Direct Costs – UCC Filings, Recording Fees, photocopying, delivery charges, collateral appraisals, etc. that are obtained in compliance with SBA policy**
- **Document preparation that MUST be done by a third party professional (attorney, environmental professional, etc.) in connection with a loan closing**

Not reported – but, the costs must be itemized and kept in the respective loan file.

Risk Based Review Results

- **Clerical Errors**

- *Missing SBA Loan Number*
- *Type of Agent Not Identified*

- **Inclusion of Direct Costs/ Out-of-Pocket Expenses**

- *Misleading - Inflates the Figures*

- **Lender Service Providers and Other Agents are not “Authorized Representatives” for the SBA Lender – an Authorized Employee of the 750 Lender Must Sign on the Lender’s behalf.**

“Staying Out of Trouble”

- **Consistent Paper Trail**

- *1919 (Section I, Questions 3 and 10; Section II, Question 20)*
- *1920 (Section F)*
- *Credit Memorandum*
 - *Any fee paid out of loan proceeds must be in the credit memorandum’s sources and uses*
- *E-Tran*
- *Closing Documents/ SBA Forms*

- **Pre- Closing Checklist**

- *Have the Form, It’s Fully Complete (Boxes Checked, Signatures Obtained), It’s Accurate*

- **Pre- Submission Review**

- *Second Level Test of the Above – Submit!*

- **Know what was done, who did the work, and who paid.**

- **Understand that your institution is RESPONSIBLE.**

Best Practices

- **Obtain Agent Signature (page 3 of 3)**
 - *Valuable Certifications*
- **Retain Documentation to Support Submission to the Fiscal Transfer Agent (Colson Services Corp.)**
- **Retain documentation to support the testing applicable parties against the System for Awards Management (SAM) Excluded Parties List System (EPLS), or successor**

If You Are Successful, We are Successful

OCRM strives to help lending partners understand how best to fulfill the requirements of the lending programs in a way that is mutually beneficial. Lending partners are crucial to the overall success of these programs and enable SBA executive management to make more informed decisions on program policy.

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How can we help you?