

# WYOMING LENDER ALERT

July 2011

## U.S. Small Business Administration

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Your Small Business Resource

## Guidance on the 504 Temporary Debt Refinancing Program

On February 17, 2011, SBA issued Policy Notice 5000-1197 to provide guidance on the 504 Certified Development Company Loan Program regarding debt refinancing authorized by the Small Business Jobs Act, P.L. 111-240 (Temporary Debt Refinancing Program). This Notice provides further guidance with respect to appraisals, multiple loans, and the approval of extensions of the six-month disbursement period.

### **I. Appraisals No Longer Required At Time of Application**

Appraisals required prior to closing. The application submitted to the Sacramento Loan Processing Center (SLPC) may include an estimate of the value of the collateral securing the Refinancing Project instead of an independent appraisal. In such case, the CDC must submit, prior to loan closing, an independent appraisal of the fair market value

of the fixed assets being refinanced and any other fixed assets offered as collateral (whether commercial or residential) in accordance with the appraisal requirements for the 504 program in SOP 5010 5(C), Subpart C, Chapter 3. If the amount of the Refinancing Project was based on an estimate, then prior to loan closing the SLPC will determine, based on the appraisal, whether the amount of the Refinancing Project needs to be revised and the refinancing restructured.

### **II. Clarification - Multiple Loans**

More than One Loan May be Combined and Refinanced. As a clarification, the Qualified Debt that is being refinanced may consist of a combination of two or more commercial loans, provided that each of the loans separately satisfies the statutory and regulatory requirements.

### **III. Delegation of Author-**

### **ity to Approve Extension of Disbursement Period**

Under the regulations for the Temporary Debt Refinancing Program, 504 loans must be disbursed within 6 months after loan approval; however, the Director, Office of Financial Assistance (D/FA), or his designee, may approve any request for extension of the disbursement period for good cause. The D/FA hereby delegates to the Center Director of SLPC the authority to approve extensions of the disbursement period up to an additional three months for good cause. This authority may not be redelegated. Any additional extensions must be approved by the D/FA.

Questions regarding this notice should be directed to the lender relations specialist in the Wyoming District Office.

## New SBA Mobile Application Brings Enhanced Access to Information and Resources

Smart phone users interested in starting or growing a small business can now find helpful resources at their fingertips via a new SBA mobile application from the U.S. Small Business Administration.

“Increasingly, smart phones are the vehicle through which Americans access information. This is certainly true of many entrepreneurs and small business owners. This new application process ensures they will have access to SBA’s resources and programs – literally at their fingertips,” said SBA Wyoming District Director, Steven Despain. “Greater mobility fits with the new user-focused SBA.gov website and is another example of the steps we are taking to do a better job of connecting entrepreneurs and small business owners with the tools to help them start or grow their businesses and create jobs.”

Developed and donated as a gift by Palo Alto Software, Inc., the SBA mobile app will make the search for extensive resources more efficient. The program can be used for starting a new business or taking an existing business to a new level. The app will first be available for the Apple iPhone®, with future versions for other smart phone platforms.

“Palo Alto Software’s mission is to help small businesses succeed. We’ve developed this mobile application for the SBA because we understand the

importance of having the right tools and resources when starting or growing a business,” said Sabrina Parsons, CEO of Palo Alto Software. “Ideas can strike entrepreneurs at any moment, and having useful resources available through mobile devices could be the impetus that begins the next big company.”

The mobile app will help users connect with SBA district office staff and SBA-affiliated counselors and mentors who can provide free, personalized small business assistance. The user-friendly format of the app will help answer questions such as: How do I start a business? Where can I go in my area to get free help with writing a business plan? And where do I begin finding funding for my business?

The SBA mobile app also features a built-in startup cost calculator to help estimate the costs associated with getting a business off the ground, plus an SBA partner locator to help users find SBA offices, Small Business Development Centers, Women’s Business Centers and SCORE.

Users will also have mobile access to SBA video content and social media alerts to provide them with tips on the go. This will include live updates from the SBA’s YouTube channel and from SBA’s Twitter feeds. The free mobile app can be downloaded from the SBA’s website at [www.sba.gov/content/sba-mobile-app](http://www.sba.gov/content/sba-mobile-app).

*Palo Alto Software’s mission is to help small businesses succeed.*

## Secondary Market Sales by SBA Lenders— Reserve Account Agreement Update

On April 15, 2011, SBA issued Procedural Notice 5000-1205 requiring that all SBA Lenders enter into a Reserve Account Agree-

ment (“Agreement”) with SBA prior to requesting SBA approval to sell loan guarantees into the Secondary Market. Lenders were required to make a

deposit into a Reserve Account before offering the guaranteed interest for sale. For the reasons discussed below, SBA will allow affected SBA

Lenders to request a loan-by-loan review as an alternative procedure to entering into an Agreement and establishing a Reserve Account.

Standard Operating Procedure (SOP) 50 53 on Lender Supervision and Enforcement (eff. Oct. 1, 2010), required all SBA Lenders that seek to sell loans into the Secondary Market and that are subject to (i) a Cease & Desist order, (ii) a Consent Agreement affecting capital or commercial lending issues, (iii) other supervisory action that cites unsafe and unsound banking practices or other items of concern to SBA, or (iv) where the SBA Lender's auditor issued a Going Concern opinion on the audited financial statements (collectively, the "Actions") to notify SBA of these Actions. SBA would evaluate the additional risk associated with the Secondary Market sale in determining whether to provide SBA's prior written consent to the sale. This evaluation generally included, among other things, reviewing the loans to be sold.

The requirement detailed in Procedural Notice 5000-1205 for such SBA Lenders to enter into an Agreement with SBA was intended to replace the loan-by-loan

review and evaluation with a faster solution, while providing SBA a comparable level of protection against risks associated with Secondary Market sales by such lenders.

Since the issuance of the Notice, SBA has received comments from affected SBA Lenders indicating that some would prefer the loan-by-loan procedure to the Reserve Account. For those SBA Lenders, particularly those that are small or that sell only a small number of loans, the Reserve Account may pose liquidity constraints and other challenges. To accommodate these considerations, SBA will allow affected SBA Lenders to request the loan by loan review as an alternative procedure to the Reserve Account. If the SBA Lender requests the loan-by-loan review procedures, it must notify the Office of Credit Risk Management (OCRM). Loans previously reviewed by OCRM may not be resubmitted to Citrus Heights for reconsideration.

Upon written acknowledgement by OCRM, a lender requesting a loan-by-loan review must submit their loan(s) for file review to the Standard 7(a) Loan Processing Center in Citrus Heights, California. The preferable method to

submit loan files is electronically through **'sendthisfile'** Attention Kim Bozzuto. If sent in hard copy, the loan files should be sent to the following address:

Standard 7(a) Loan Processing Center  
Attention: Kim Bozzuto  
6501 Sylvan Road  
Citrus Heights, CA 95610.

For SBA Lenders that prefer to use the Reserve Account and not have SBA review every loan, the process described in Procedural Notice 5000-1205 will continue to apply. The lender's OCRM analyst will work with it to put the Agreement and Reserve Account in place.

Please note SBA may, on a case-by-case or loan-by-loan basis, in its discretion, request other financial assurances (including a Reserve Account) or other oversight measures or not approve the loan(s) for sale, given the risk, compliance or other concerns of a particular situation.

Questions on this Notice may be directed to Eugene Stewman, Acting Director, Office of Credit Risk Management at (202) 205-3049. Questions regarding individual loan file reviews in Citrus Heights may be directed to Kim Bozzuto at 916-735-1500, extension 8040.



307 261-6505

## Requirements for Recovery Act Certification

Prior to first disbursement, the Lender must require the Borrower and any Operating Company to certify as follows:

### Immigrations Laws

Neither the Borrower nor Operating Company has been determined by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring an alien, recruiting an alien or referring an alien for a fee for employment in the United States, knowing that the person is an unauthorized alien.

### Allowable Uses of Recovery Act Funds:

Lenders must certify on the applicable eligibility questionnaires and checklists that no loan proceeds will be used for restricted use.

If an applicant receives a working capital loan, prior to first disbursement,

the lender must require the Borrower and any Operating Company to certify that no funds from the working capital loan will be used for restricted purposes. This certification must be retained in the lender's loan file.

At the time of purchase, Herndon is required to confirm that the required certifications were acquired and retained.

The decision has been made that there is no remedy for the immigration certification. If the lenders don't have it, then the guaranty percentage must be reduced.

For the Use of Funds, if the lender does not have the required certification, we will allow them to attempt to prove to us, using other evidence, that the funds were not used for restricted purposes.

If a lender cannot provide either of the certifications or acceptable evidence, then the loan was not eligible to be made under the Recovery Act, and therefore, we must reduce the guaranty percentage from 90% to 75%.

This is NOT a repair. The remedy would be to convert the loan to a 7(a), since the lender did not ensure that the loan was eligible under the Recovery Act.

## Social Media

*Connect with the U.S. Small Business Administration on Facebook, Twitter and Youtube.*



## Calendar of Events

July 4, 2011—Independence Day

