Getting Your Guaranty Honored

www.sba.gov/banking
National Guaranty Purchase Center (NGPC) in Herndon, VA

- Ten Tab Submissions
- Pillars of the Purchase Request Review
- Common Reasons for Repairs and Denials
- CPC Tabs
- Charge-Off Tabs
- OIC Tabs
- Unilateral Action Matrix
- Semi Annual Status and Wrap-Up Reports
According to 13 CFR 120.520, a Lender may demand in writing that SBA honor the guaranty on a 7(a) loan if:

– The Borrower is in default on any installment for more than 60 calendar days;

– The default has not been cured; and

– All business personal property has been liquidated (for loans approved on or after May 14, 2007)
NGPC will honor the guaranty within 45 days or less if the package is complete

- The Center accomplished this goal by developing a **Standard, Auditable, Purchase Review Process** which includes the 10-Tab purchase package, Purchase Operations Manual, and automated recommendation process.

- Additionally, we value and engage our partners in the District Offices to assist lenders in preparing purchase packages and providing training.

- **NOTE:** For loans approved on or after 01/01/14, with a gross approval amount of $350,000 or less, purchase request should be sent to the appropriate SBA servicing center to be processed (Little Rock or Fresno).
Helpful Purchase Tips

• Provide a complete package with executed tabs to ensure quick processing. Include all required documents and answer all questions on tabs.
  – NOTE: If loan is ready for charge off at the time of purchase, NGPC will limit the ongoing guaranty fee deduction to 120 days (for Pre Purchase loans approved on or after 12/08/04).

• Inform us proactively of missing documents and deficiencies so we don’t have to stop the process to ask.

• Build your loan file at origination using the 10-Tab system to ensure that all documents are present at origination.

  ▪ ALWAYS go the NGPC website to get up-to-date instructions and forms! http://www.sba.gov/for-lenders
Possible Outcomes of Guaranty Purchase Review

- **Purchase**: Purchase request is complete, there is no harm to the Agency, and meets all criteria for honoring the payment in full. A decision to fund is reached within the 45-day Brand Promise.

- **Repair**: A decision is reached to honor the guaranty, but not in the full amount, due to a material deficiency during origination, closing, servicing, and/or liquidation.

- **Denial**: A decision is reached to deny the guaranty in full. This must have headquarters concurrence.

- **Cancel/Terminate**: Based on the facts of the case, the lender chooses to cancel or terminate the guaranty.

- **Withdraw**: Lender needs more time to collect documents and provide additional information, therefore withdraws the request. The guaranty is still in full effect and the purchase request can be made anytime thereafter. Loan can also be withdrawn (Pre) if lender has been unresponsive to customer service requests or processed as-is (Post) which could result in a repair/denial.
The Four Facets of a Guaranty Purchase Review

- **Origination**: Determine that the loan was originated in accordance with regulations and Standard Operating Procedures in place at the time of origination.
- **Closing**: Evaluate whether the loan was closed in accordance with the Loan Authorization.
- **Servicing**: Evaluate whether the servicing of the loan was in accordance with the loan documents, regulations, and prudent lending practices – and whether those actions caused harm to the Agency.
- **Liquidation**: Evaluate whether the liquidation and collection on the defaulted loan was prudent and followed program guidelines.
The SBA regulations established the “Rule of Two” that all of the Centers must follow. This requires that one SBA official make a recommendation and another approve it. We are also required to have an attorney review each purchase request. Every purchase request is reviewed by a minimum of three SBA employees.
Guaranty Purchase Process Flow – The Life of a Purchase Package

1. Intake
2. Screening
3. Legal 1
4. Financial Review
5. Legal 2
6. Approver

If a purchase package is complete it moves from step 1 through step 6 with no stops. If there are questions or missing documents the package is sent to Customer Service to request additional information from the lender.

An L2 is only required when the loan is recommended for charge off at the time of purchase, or if a repair or denial issue has been raised during the Legal 1 or Financial Review.
How to Submit a Purchase Package

• There are several ways to send a package:
  – Paper format via the mail
  – Electronic on CD via the mail
  – Electronic via Send this File

• Electronic is the preferred method, and using Send This File is the most expeditious and reliable.
  – To get information on Send This File, visit our website or contact our IT specialist at richard.geyer@sba.gov
The cover sheet of the Tabs explains the process and outlines the categories to be addressed behind each tab.

- The documents are arranged in logical groups to facilitate package submission.
- The Tabs are available on the SBA website as a fill-able PDF with links to all mandatory and suggested forms and all documents needed in the purchase review process are located at [http://www.sba.gov/for-lenders](http://www.sba.gov/for-lenders)
• Please read Tab 1 carefully and answer the questions.
• LowDoc loans must be fully liquidated prior to requesting purchase.
• Loan approved on or after May 14, 2007, must have all business personal property liquidated prior to guaranty purchase. In special circumstances, SBA will discuss with the lender if this can be waived, based on the situation.
• Cause of Business Failure Memo is required on ALL loans.
• The mandatory Demand Letter can be used for pre-purchase demands as well as secondary market purchase demands and post purchase reviews.
• Please be sure you check the correct box to ensure proper routing in the Center.
• Global certification feature designed to decrease follow-up signature requests to lenders. Please be sure that an authorized bank representative signs the letter.
The most important, required document in the guaranty purchase process is the Loan Authorization AND any Amendments.

Read this document carefully, as it will dictate what documents will need to be provided later.

At this stage pay particular attention to collateral taken, use of proceeds, lien positions, and guarantors as they will be critical on later tabs.

Include ANY loan modification documents as well as deferments, workout agreements, interest rate adjustments, and payment revisions. Center staff only need to know that they occurred and were properly executed.

SBA generally will not question prudent decisions by the lender if they are documented and executed properly.

Please be sure to include information on companion loans.

See NOTE on Recovery Act Loans.
Tab 3 - Eligibility Requirements

- Making an ineligible loan will result in a full denial.

- The type of business dictates the documentation that will be required.

- Please provide all required eligibility checklists.

- If the loan was made to a franchise or dealership, it must be on the franchise registry. If not, you must provide a copy of the franchise agreement to ensure it was an eligible franchise. If it is on the registry, please provide a certificate of no change.

- If the business sold fuel or gasoline, you must provide a copy of the fuel supply or jobber agreement.

- If the loan is Recovery Act, you will place your eligibility certifications behind this tab.
Tab 4 – Legal Documentation

• Tab 4 outlines the documentation required for the majority of the Legal Review.

• We must receive a copy of the original Note along with any modifications, amendments, deferments, and workout agreements so that the reviewer can determine the original and current terms of the loan.

• Guaranties – a guaranty is required when participation in the business is 20% or more.

• Security Agreements

• UCC Lien Searches – you must be able to prove to SBA with a post-default lien position that you secured the correct position. This is one of the major causes for repairs.

<table>
<thead>
<tr>
<th>Legal Documentation Required</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Note (SBA Form 147) is mandatory for all loans. You must also submit copies of any Note Modifications, Amendments, Deferments, and Workout Agreements to include all revised repayment terms including dates, interest rate adjustments, and payment revisions. For Secondary Market loans, lender must provide evidence of investor’s approval of modifications, as applicable.</td>
<td></td>
</tr>
<tr>
<td>B. Legal Documents Provide all that are applicable and see corresponding definitions. If applicable but not provided, please explain.</td>
<td></td>
</tr>
<tr>
<td>[ ] Guaranties (SBA Form 148)</td>
<td></td>
</tr>
<tr>
<td>[ ] Security Agreement (Use of SBA Form 1059 is optional)</td>
<td></td>
</tr>
<tr>
<td>[ ] UCC Lien Search</td>
<td></td>
</tr>
<tr>
<td>Date of Post Default UCC Search:</td>
<td></td>
</tr>
<tr>
<td>[ ] Title Insurance and Recorded Deeds of Trust/Mortgages</td>
<td></td>
</tr>
<tr>
<td>[ ] Purchase/Sale Agreement</td>
<td></td>
</tr>
<tr>
<td>[ ] Legal Pleadings &amp; Schedules, Bankruptcy Filings, and Court Motions</td>
<td></td>
</tr>
<tr>
<td>[ ] Other (e.g., Certificate of Ownership and/or Certificate of Title of Vehicles or Manufactured Homes, Assignment of CDs or Stock, Assignment of Life Insurance, Landlord’s Subordination, Lease Agreement)</td>
<td></td>
</tr>
<tr>
<td>C. Social Security or EIN - Required for each Borrower/Guarantor</td>
<td></td>
</tr>
<tr>
<td>Borrower/Guarantor</td>
<td>SSN/EIN</td>
</tr>
<tr>
<td>Borrower/Guarantor</td>
<td>SSN/EIN</td>
</tr>
<tr>
<td>Borrower/Guarantor</td>
<td>SSN/EIN</td>
</tr>
<tr>
<td>D. Statement of Personal History (Form 912) - Required for all loans</td>
<td></td>
</tr>
<tr>
<td>[ ] Yes</td>
<td>[ ] No</td>
</tr>
<tr>
<td>E. Was this loan part of a whole bank transfer from FDIC?</td>
<td></td>
</tr>
<tr>
<td>[ ] Yes</td>
<td>[ ] No</td>
</tr>
<tr>
<td>If Yes, did the bank enter into a Loss/Sale Agreement with FDIC?</td>
<td></td>
</tr>
<tr>
<td>[ ] Yes</td>
<td>[ ] No</td>
</tr>
</tbody>
</table>
• Title Insurance and/or recorded Deeds of Trust/Mortgages are mandatory where real property collateral is required. We use it to determine if the lien position is correct.

• The purchase/sale agreement provided must be executed and final.

• The SBA Form 912 is required for ALL purchase requests.

• Review your Loan Authorization when completing this tab.

• For ALL loans closed/disbursed on or after 10/01/12, the Lender is required to provide the CAIVRS report for all SSNs and TINs from loan origination.
### Settlement Sheets (SBA Form 1050)

#### Required

**Disbursements**

A key element in the process is reviewing each disbursement to determine that loan proceeds were used in accordance with the Loan Authorization and for eligible business purposes. For loans made on or after 8/1/08, only one settlement sheet is required; however, documentary evidence is required for all disbursements. For loans made prior to 8/1/08, all settlement sheets must be included with evidence.

**Documentary evidence**

Copies of the cleared joint payee checks, Paid Invoices, and Final & Executed Bills of Sale as applicable for each disbursement must be itemized. Include totals for each disbursement category.

- **Did loan proceeds payoff lender’s interim loan?** □ Yes □ No
  - If Yes, please provide a copy of the interim loan’s Note and evidence of use of proceeds.
- **Did any of the loan proceeds (other than working capital) go directly to the borrower?** □ Yes □ No
  - If Yes, please provide supporting documents verifying these funds were used according to the Loan Authorization (copies of checks, paid invoices, receipts, etc.).
  - **Supporting documentation must be itemized and organized**

**If Debt Refinance, Please Provide:**

- Debt Schedule (Please provide copies of notes and/or payoff statements)
- Borrower’s Certification that credit card debt being refinanced was incurred exclusively for business purposes. (See SOP 50 10 in effect at the time of origination)

**7(a) Recovery Act Loans of 2009**

- Was working capital financed with loan proceeds? □ Yes □ No
  - If Yes, provide certification executed, prior to disbursement, by the Borrower and/or Operating Company, certifying that no funds obtained from the working capital loan would be used for restricted purposes.

- Was this loan funded with Recovery Act Funds for a Project with Restricted Uses? □ Yes □ No
  - If Yes, (a) provide Credit Memorandum (even if the loan is not an early default) documenting that use of proceeds does not include financing restricted uses, and document the other resources that cover the financing component of restricted uses; and, (b) provide Borrower and/or Operating Company certification, prior to first disbursement, that alternate funding proceeds have been obtained to finance restricted uses of the project.

---

**SBA reviews the Settlement Sheets for several reasons:**

- **Ensure loan was properly disbursed,**
- **Ensure proceeds were used in accordance with the Loan Authorization,** and
- **Ensure proceeds were used for eligible purposes**

**You must provide SBA with evidence to support these reasons**

- **Evidence can include copies of cleared checks, paid invoices, bills of sale, or executed contracts**
- **Documentary evidence is always required for each disbursement. For loans made on or after 8/1/2008, only one settlement sheet is required for the initial disbursement.**
• Avoid issues by never disbursing directly to the borrower. Use joint payee checks or pay the vendors directly. W/C funds cannot be disbursed to an EPC.

• When the purpose of the loan is to refinance existing debt, be sure to have evidence that the existing debt was originally incurred for eligible business purposes.

• For Recovery Act Loans be sure you have the borrower certification for working capital proceeds, and that no proceeds were used for ineligible purposes as outlined in the Act.

• If the proceeds are to payoff an interim loan be sure to include the internal credit approval and evidence of use of proceeds for that loan.
SBA encourages the use of SBA Form 1149

If the Lenders choose not to use the 1149, the transcript **MUST** contain all of the information required on the Form 1149

It is critical to note the next payment due date

Also critical to indicate any/all deferments or loan modifications

Use the SBA loan number, not the lender’s loan number

Enter ALL payments and provide interest paid “from” and “to” dates

Show interest rate adjustments according to the Note terms

Do not charge off the guaranteed portion until the guaranty is purchased

Interest cannot be paid in advance

Payments should be applied in accordance with the terms of the Note. For loans in liquidation, payments should be applied to principal only absent an executed workout or forbearance agreement.
Definition: An Early Default occurs when a loan defaults within **18 months from initial disbursement**

- A loan with Early Loan Problems will be treated as an Early Default.
- Early Loan Problems exists when the following occurs:
  - An un-remedied failure by the borrower to make one or more scheduled loan payments
  - Funding scheduled loan payments from the sale of collateral rather than from business operations
  - A deferment of more than 3 consecutive scheduled full payments
  - Classifying the loan in liquidation status within the 18-month period

High Dollar Early Defaults are a high focus area
Tab 7 - Early Default Requirements
Equity Injection

- Pay particular attention to equity/asset injections, if required.
  - Injection is supposed to occur prior to disbursement. If it occurs on or after disbursement the lender must clearly show that the injection did not come from loan proceeds.
  - Lenders can verify the injection with:
    - Credit card receipts indicating items purchased for the business
    - Paid invoices with vendor receipts or cancelled checks
    - Copies of processed checks payable to the business and business bank statement showing the funds deposited
    - Borrower bank statement that shows beginning and ending balances prior to loan disbursement, dated within 2 months of disbursement.
    - Settlement Sheet or closing agent’s settlement statement dated and signed by borrower and closing agent.
  - If loan was approved 09/06/05-10/01/10, SOURCE OF INJECTION is required if injection amount is greater than 1/3 of the loan amount or $200,000 (whichever is less). If loan was approved AFTER 10/01/10, source of injection is required on ALL early default loans.
  - Standby Agreement should be provided if required.
IRS Income Tax Verification

- The lender must provide copies of the IRS tax transcripts and the financial statements and/or other financial information that was used in the credit analysis during the loan origination process. After comparison against the tax transcripts, any discrepancies must be addressed by the Lender.
- If the business is a start-up, this is not required.
- If you don’t have evidence that the IRS transcripts were verified against the financial statements, please provide an explanation as to what was used to verify the income of the borrower.
- If an existing business and repayment is based on projections, IRS verification is required to verify the borrower is filing taxes (character issue).

A copy of the Credit Memorandum

- SBA reviews the credit memo and supporting documents to ensure that the lender has acted prudently.
- Cash flow and repayment ability will be examined in the credit memo to ensure that the lender fully considered the risk involved in making the loan.
- If projections are being used, must be reasonable, justified, etc. (i.e. compared to RMA/industry standards).
Lenders MUST itemize all collateral with a unit value of $5,000 or more.

Lenders MUST reconcile all original collateral against list of post-default collateral.

If required, you must provide appraisals from origination and post default (at liquidation).

Post default appraisal should be less than 120 days old and never more than 1 year old.

Provide Report of Sale of collateral or other disposition activity.

Abandonment of collateral MUST be justified and documented.
• Lender MUST show evidence of attempts to secure and safeguard collateral post-default and provide a post-default Site Visit Report
• Site Visit must be done within 60 days of uncured payment default or 15 days of adverse event
• Lenders MUST notify SBA if they will continue collections/servicing actions—otherwise Treasury will continue collections against all guarantors.
• The majority of repairs come from mishandling of collateral.
  – Failure to do a timely site visit
  – Failure to perfect lien position
  – Repair is only done if there is monetary harm to Agency as a result.
• Wrap-up Report or Status of Liquidation to Date
Wire Transfer Form is required to ensure prompt and correct payment

This Tab should include any other documents relevant for guaranty purchase review or required by the loan authorization

Phase 1 and/or 2 Environmental Reports must be included if applicable

Care and Preservation of Collateral and Legal Expense Reimbursements
- If requesting expense reimbursement and the loan is ready for charge off, please certify that no further expenses will be claimed.
Materiality

- NGPC focuses on ‘material’ deficiencies that cause a significant loss or harm to SBA, or are a matter of program integrity
- Origination and Closing Actions
  - Examples: Eligibility and franchise issues, Lack of equity injection (early defaults), missing IRS verification (early defaults), lack of evidence of disbursements
- Servicing Actions
  - Examples: Improper subordinations, unjustified release of collateral or guarantors, lapse of liens, and Lender preference issues
- Liquidation Actions
  - Lack of timely site visits after default or adverse event which causes a loss to the Agency
  - Lack of comprehensive inventory at time of site visit which causes a loss to the Agency
  - Failure to maximize recovery (deficient pursuit of collateral or obligors)

Burden of Proof – the burden of proof is always on the lender to prove that the deficiency is not material and did not cause the failure of the business
Top Reasons for Repair and Denial

• Lien and Collateral Issues that Result in Missed Recoveries (Generally a Repair)
  – Failure to obtain required lien position
  – Failure to properly perfect security interest
  – Failure to fully collateralize loan at origination when additional collateral was available (in rare cases)

• Unauthorized Use of Proceeds
  – Proceeds disbursed for purpose(s) inconsistent with the loan authorization or subsequent modifications without a business justification. (Could be a Denial if early default and improper use of proceeds caused the failure of the business)
Top Reasons for Repair and Denial

- **Liquidation Deficiencies (Generally a Repair unless harm is the full value of the outstanding balance)**
  - Failure to conduct Site Visit which resulted in missed recoveries
  - Improper safeguarding or disposition of collateral which resulted in missed recoveries
  - Misapplication of recoveries to lender’s loan when SBA-guaranteed loan has lien priority

- **Undocumented Servicing Actions (Generally a Repair)**
  - Liens not properly renewed during servicing on worthwhile collateral
  - Release or subordination of collateral without documented business justification
  - Allowing hazard insurance to lapse on major collateral and collateral was subsequently destroyed
  - Failure to maintain life insurance on principal and principal subsequently dies
Top Reasons for Repair and Denial

• Early Defaults (Denial if determined to be reason for business failure)
  – Missing or unsupported verification of required equity injection (includes verification of source in some cases)
  – Missing or unsupported documentation of verification of borrower financial information with IRS when financial information was relied on in lender’s credit analysis
  – Repayment analysis is not adequately justified.
  – Lack of Business Valuation (business purchase) or asset appraisal (asset purchase).

• SBA Loan Eligibility (Denial)
  – Ineligible franchise
  – Ineligible loan purpose
  – Ineligible loan recipient (loan to an associate of lender)
Because the 10-Tab system was so successful for the purchase process we have developed additional tab systems for the following functions:

– Care and Preservation of Collateral and Legal Expense Reimbursements
– Offer in Compromises
– Litigation Plans
– Charge Off/Wrap Up Reports
The two servicing centers and NGPC collaborated to create the Unilateral Action Matrix.

This document is designed to assist the lenders in understanding what actions require SBA approval, SBA notification, and are unilateral.

During the purchase process we are concerned with materiality and harm. As long as the actions you take are documented, prudent, and don’t cause harm to the Agency, the Center will generally not be concerned with them at the time of purchase.
• Lenders are responsible for keeping SBA informed of liquidation activities after purchase by submitting a status report semi annually.

• Semi Annual Status Reports can be brief. We just need to know if the loan can be charged off, and if not why? Liquidation? Litigation? Bankruptcy?

• Send Reports to sbachargeoff@sba.gov or mail to NGPC.
Wrap-Up Reports

• When you are satisfied that all collection efforts have been exhausted and liquidation is complete, you must notify the Center immediately so that we can charge-off the loan.

• Our goal is to charge-off a loan as soon as it is ready. We rely on our Lending Partners to keep us informed of the status of each of their loans.

• When you believe a loan is ready for charge-off, please prepare and submit a final wrap-up report to sbachargeoff@sba.gov or mail it to NGPC.

• New Charge Off Tabs are available online. Please use these tabs to prepare your wrap-up report.

• NOTE: Per the SOP 50 57 2, effective 12/01/15, the Assignment Form is required on all loans that are ready for charge off, with referrals to Treasury. The form can be found on our website.
Center Management

• Vanessa Piccioni, Director
• Neil Miller, Deputy Director
• Debbie Lester, Assistant Director for Portfolio Resolution
• Kevin Hardy, Assistant Director for Center Operations Division
How to Contact Us

National Guaranty Purchase Center
1145 Herndon Parkway
Herndon, VA 20170
Phone: 703-487-9283
Toll Free: 877-488-4364
Fax: 703-487-9944

Center Hours: Monday-Friday, 8:00 am to 4:30 pm, Eastern Time

Email Inquiries:
loanresolution@sba.gov – general questions
secondarymarket@secondarymarketliq@sba.gov – secondary market questions
sbapurchase@sba.gov – status of purchase questions
sbachargeoff@sba.gov – semi annual status reports and wrap-up reports

Website – www.sba.gov/HerndonNGPC
Questions
Contact Information

Rick Haney
304-623-7449
Richard.haney@sba.gov

Leo Lopez
304-347-5220
Leo.lopez@sba.gov

Or contact your local Lender Relations Specialist – www.sba.gov
Upcoming Webinars

• Feb. 21 @ 1 p.m. – Franchise Overview
• Feb. 28 @ 11 a.m. – Benefits of SBA Lending

• Visit our Lender Training Website at: https://www.sba.gov/offices/district/wv/clarksburg/resources/west-virginia-lender-resources-training to register and for more trainings