

Intro to SBA Lending – Part 2

Tuesday, January 26 – 10:30 a.m. Eastern

**For audio portion, dial 1-877-369-5243 or
1-617-668-3633 and enter the access code
of 0629205#**

Thank you!



U.S. Small Business Administration

West Virginia District Office

Intro to SBA Lending Part 2

**Presented by
West Virginia District Office**



Mark Your Calendar

- [Intro to SBA Lending, Part III - 11:00 a.m. on February 2](#)
Session includes:
 - Servicing Actions
 - Liquidation Status Transfer
 - Site Visit & Reporting Requirements
 - Guaranty Purchase Requests
 - Charge-Off & Referral to Treasury

Visit: <https://www.sba.gov/offices/district/wv/clarksburg/resources/west-virginia-lender-resources-training> for upcoming webinars.

To register send an e-mail to: richard.haney@sba.gov

Authorizing Officials now required for 7(a) Lender ETran access

- SBA has established new security measures as a result of the recent incidents. This requires each lending institution have Authorizing Officials. **Authorizing Officials approve the access for their ETran users.**
- SBA recommends **two people** for each lending institution as Authorizing Officials for backup purposes.
- Authorizing officials should be **staff who frequently review email requests due to having to respond to email requests within 48 hours**. In addition to approving ETran users, AOs are responsible for recertifying accounts of individuals who actually use using ETran and SBA One. Recertification is required semi-annually.
- If not previously enrolled - New AO requests should access the CAFS at: <https://caweb.sba.gov>; select “Not Enrolled” under SBA Account Login on the upper left of the screen. Complete all sections of the profile creating your UserID and Password using the rules provided. Select “Partner” for user type. Enter the Location ID of your institutions headquarters location (can use the Lookup feature or contact your LRS) then select “Authorizing Official” under Job Classification. Under Supervisor Information enter your email address, first and last name. Send an email to cls@sba.gov with the subject line PRODUCTION Authorizing Official Approval Request. State in the email you are requesting to become an authorizing official for your location ID.
- You will receive an email verifying your email address. You must click in the email and verify your email address within 48 hours. Your request will be deleted if no response is received within 48 hours.
- You will then receive an email from cls@sba.gov indicating your account has been approved.

Authorizing Official

- Once that first person has worked through the approval process, the second Authorizing Official should follow the steps outlined on the previous slide except the second Official will **not** have to send an email to CLS@SBA.gov because the first Authorizing Official will approve the second Authorizing Official's access.
- For existing accounts, send an email to cls@sba.gov with the subject line PRODUCTION Authorizing Official Approval Request. State in the email you are requesting to be an authorizing official for your institution and include your location ID (contact your LRS if you do not know it).
- Detailed instructions will be sent after the webinar.
- Note: CAFS access is supported by specific browser versions. These versions are: Microsoft Internet Explorer version 11 (IE 11); Firefox 40.0 and 41.0; Chrome 45.0 and 46.0; and Microsoft Edge.

SBA One

SBA One is a new online “one-stop” SBA portal. It provides extensive built-in guidance to lead you through the submission of new SBA 7(a) loan applications including SBA Express loans.

- SBA has set up a “test” site that may be used to learn about the SBA One system. You are also encouraged to begin using the “live” site when you feel comfortable.
- SBA is giving expedited processing to non-delegated 7(a) loans submitted via SBA One. Non-delegated 7(a) loans are those that are NOT submitted under the Preferred Lenders Program (PLP) or SBA Express .

We will include in the e-mail sent after today’s webinar:

- instructions on how to sign up for both the SBA One Test site and the Live site.
 - For the Live site, you will need to follow the instructions re setting up an Authorizing Official.
- SBA One FAQs
- Fact Sheet on SBA One which provides information on the security protocols which you may share, as needed, with your IT department.

If you have questions about signing up for SBA One, contact your Lender Relations Specialist. If additional assistance is needed, referral to SBA One staff may be necessary (877-245-6159 opt. 5 or sba.one@bnymellon.com).

Training on SBA One is available in the SBA One portal.

SBAExpress/Export Express Authorization

SBA announced the issuance of an updated *SBAExpress* and *Export Express* loan authorization which went into effect January 15, 2016. SBA Notice 5000-1372 contains the details of the updates (will be sent at conclusion of webinar). Lenders are to use this version for all *SBAExpress* and *Export Express* loans.

Part 2 Includes

- Equity Requirements
- Acceptable Sources of Injection
- Income Tax Verification Process (IRS Form 4506-T)
- Debt Refinancing
- Changes of Ownership
- Real Estate and Business Appraisal Requirements
- Occupancy Requirements
- Franchises

Equity Requirements

Standard 7(a) over \$350,000

- No minimum set by SBA.
- Lender must determine if equity and pro forma debt-to-worth are acceptable based on the factors related to that type of business, experience of the management and the level of competition in the market area.
- Lender must include in its credit analysis a detailed discussion of the required equity and its adequacy.

Sources of Equity Injection

- Cash that is NOT borrowed.
- Cash that IS borrowed only if Small Business Applicant can demonstrate repayment of this personal loan from sources other than cash flow of the business (Note: The salary of the business owner does not qualify).
- Standby debt that is on full standby (no payments of principal or interest for the term of SBA-guaranteed loan) may be considered acceptable equity. A debt that is on partial standby (interest payments only being made) may be considered equity when there is adequate historical business cash flow available to make the payments.

Following may not be considered as Equity Injection:

- Value or cost of education; and
- Funds that are borrowed and do not meet above requirements.

Injection Verification Process

- Lenders must verify the injection prior to disbursing loan proceeds and must maintain evidence of such verification in their loan files.
- Lenders are expected to use reasonable and prudent efforts to verify that equity is injected and used as intended, and failure to do so may warrant a repair or partial/full denial.
- Lenders must submit with each purchase request where the loan authorization required an equity injection, documentation to show that they verified the equity injection. Verifying a cash injection requires the following documentation:

Injection Verification Process

- A copy of a check or wire transfer along with evidence that the check or wire was processed showing the funds were moved into the borrower's account or escrow; and
- A copy of the statements of account for the account from which the funds are being withdrawn for each of the two most recent months prior to disbursement showing that the funds were available; and
- A subsequent statement of the borrower's account showing that the funds were deposited or a copy of an escrow settlement statement showing the use of the cash.

NOTE: A promissory note, “gift letter” or financial statement is not sufficient evidence of cash injection without corroborating evidence consistent with paragraphs.

Equity Requirements

Small 7(a) Loans (i.e. non-Express loans of \$350,000 or less)

- Lender must determine if equity and pro-forma debt-to-worth are acceptable based on its policies and procedures for its similarly-sized, non-SBA guaranteed commercial loans.
- If lender requires an equity injection and, as part of its policies and procedures for its similarly-sized, non-SBA guaranteed commercial loans verifies the equity injection, it must do so for SBA loans.

Equity Requirements

Express loan programs

- Lender decides whether an equity injection is required.
- If lender requires an equity injection and, as part of its standard processes for non-SBA guaranteed loans verifies the equity injection, it must do so for SBA Express loans.

IRS Form 4506-T

SBA's Tax Verification process is used to determine if:

1. Small Business Applicant filed business tax returns; and
 2. Small Business Applicant's financial statements provided as part of application agree with business tax returns submitted to IRS.
- For a sole proprietorship, lender must verify the Schedule C.
 - For a change of ownership, lender must verify seller's business tax returns or a sole proprietor's Schedule C. Where there is an acquisition of a division or a segment of an existing business, other forms of verification may be used in lieu of the 4506-T (e.g. Sales tax payment records).
 - Lender must submit IRS Form 4506-T to IRS to obtain federal income tax information on Borrower, or Operating Company if the Borrower is an EPC, for the last 3 years (unless Borrower or Operating Company is a start-up business).
 - Lender must compare tax data received from IRS with financial data or tax returns submitted with loan application (and document the file).
 - Form 4506-T should be completed as soon as possible in application process. It takes approximately 10 business days to receive a response from the IRS.

Restrictive Use of Proceeds

- Per 13 CFR 120.130 - SBA will not authorize nor may a Borrower use loan proceeds for the following purposes (including the replacement of funds used for any such purpose):
 - Payments, distributions or loans to Associates of the applicant (except for ordinary compensation for services rendered);
 - Refinancing a debt owed to a Small Business Investment Company (“SBIC”) or a New Markets Venture Capital Company (“NMVCC”);
 - Floor plan financing or other revolving line of credit, except under § 120.340 or § 120.390;
 - Investments in real or personal property acquired and held primarily for sale, lease, or investment (except for a loan to an Eligible Passive Company or to a small contractor under § 120.310);
 - A purpose which does not benefit the small business; or
 - Any use restricted by § 120.201 through § 120.203 and § 120.884 (specific to 7(a) loans and 504 loans respectively).

Policies Regarding Debt Refinancing

SBA guaranteed loan proceeds may not be used to refinance debt originally used to finance a loan purpose that would have been ineligible for SBA financing at the time it was originally made **unless the condition that would have made the loan ineligible no longer exists.**

Example: applicant business originally incurred debt to acquire a building that it leased entirely to another business (e.g., a passive investment). Now, applicant business operates an eligible small business in the building and would like to refinance the debt used to acquire the building. The refinancing is eligible, provided the other conditions regarding debt refinancing and occupancy are met.

Policies Regarding Debt Refinancing

- Debt reflected on applicant's business balance sheet may be eligible if it has been reported on applicant's business tax returns (Schedule C for sole proprietorships) showing the interest expense associated with debt and;
 - If debt to be refinanced was the first extension of credit, lender must document that the proceeds from that debt were used exclusively for applicant business and were not used for any ineligible purpose as set forth in 13 CFR § 120.130.; or
 - If debt to be refinanced was used in whole or in part to refinance a prior debt, it must be reflected on applicant business tax returns (Schedule C for sole proprietorships) for the prior two full tax cycles, showing interest expense associated with debt, and borrower must certify in accordance with 13 CFR § 120.130 that debt to be refinanced was used exclusively for applicant business and were not used for any ineligible purpose.

Policies Regarding Debt Refinancing

- Debt in personal name of applicant owners such as a **Home Equity Line of Credit (HELOC) or credit card debt** used for business purposes may be eligible for refinancing if:
 - For HELOC debt:
 - applicant must certify that the amount being refinanced was used exclusively for business purposes and provide appropriate documentation.
 - For example, a sole proprietor may demonstrate the debt was used for business purposes by providing documentation that shows the interest deduction is reported on the Schedule “C” not the Schedule “A” of the proprietor’s tax return.
 - If the interest deduction reported on the Schedule C includes multiple debts, then the applicant must provide a copy of the appropriate IRS Form 1098 related to the debt being refinanced.

Credit Card Debt Refinancing

If debt is in the form of an outstanding balance on a credit card issued to the small business:

Lender must:

- confirm that credit card is in name of business
- obtaining applicant's certification that credit card debt being refinanced was incurred exclusively for business related purposes.
- If business credit card was also used for personal reasons, applicant must identify and deduct from credit card balance any purchases used for personal reasons. Loan proceeds must not be used to refinance any personal expenses.

Credit Card Debt Refinancing

If debt is in the form of an outstanding balance on a credit card issued to an individual personally:

Lenders must:

- confirm which of the credit card obligations were used for business purposes.
- document the specific business purpose of the credit card debt
- applicant must certify that the loan proceeds are being used only to refinance business expenses.
 - Documentation required for refinancing personal credit card debt includes a copy of the credit card statements and individual receipts for any business expenses in excess of \$250. In all cases, the applicant must certify that the amount that will be refinanced was used exclusively for business expenses.

Debt Refinancing

SBA guaranteed loans may be used to refinance the following types of business debt:

- Debt (short or long term) structured with a demand note or balloon payment;
- Debt with an interest rate that exceeds the SBA maximum interest rate for the processing method being used;
- Credit card obligations used for business-related purposes;
- Debt over-collateralized based on SBA's collateral requirements;
- Revolving lines of credit (short term or long term) where the original lender is unwilling to renew the line or the applicant is restructuring its financing in order to obtain a lower interest rate or longer term;
- Debt with a maturity that was not appropriate for the purpose of the financing (e.g. a 3 year term loan to finance a piece of equipment with a useful life of 15 years);

Debt Refinancing

- Debt used to finance a change of ownership of a business under the following scenarios:
 - Lender must obtain a current business valuation that meets SBA's requirements;
 - If the amount reflected on the applicant's most recent business financial statements for intangible assets exceeds \$500,000 and the applicant does not have at least 25% equity, the application may not be processed using delegated authority and must be sent to the LGPC;
 - Lender may consider refinancing any seller take-back financing with an SBA-guaranteed loan if it has been in place for at least 24 months following the change of ownership and is, and has been, current for the past 24 months. The refinancing request must meet SBA's other rules for refinancing debt;
- Debt that is not identified above but the Lender believes no longer meets the needs of the Small Business Applicant. Applications under this subparagraph may only be processed through Standard 7(a) procedures.

Debt Refinancing

With the exception of:

- debt structured with a demand note or balloon payment;
- credit card obligations; and
- revolving lines of credit,

the new installment amount must be at least 10 percent less than the existing installment amount(s). If the note terms include an escalating payment structure, the new installment amount must be at least 10 percent less than the expected installment amount within the next 12 months

Refinancing Same Bank Debt

When a lender seeks to use SBA guaranteed loan proceeds to refinance its own debt:

- it must include a transcript showing the due dates and when payments were received as part of its analysis and recommendation for the prior 36 months, or the life of the loan whichever is less.
- lender must explain in writing any late payments and late charges that have occurred during the last 36 months. (Late payments are defined as any payment made beyond 29 days of the due date.)
- An SBA guaranteed loan may not be used to refinance same institution debt where there is an appearance that the lender will shift to SBA all or part of a potential loss from that same debt. (13 CFR § 120.201)

Refinancing an SBA-Guaranteed Loan

An SBA guaranteed loan can be refinanced if in addition to previous stated refinancing requirements, the debt also complies with the following:

- Procedure to refinance an SBA-guaranteed loan:
 - Contact the lender holding the existing SBA-guaranteed loan and verify that the lender has declined to approve an increase in loan amount or a second loan and the lender is either unwilling or unable to modify the current payment schedule.
 - Document the conversation in the case file, recording the date, time and person with whom you spoke, along with a short summary of the conversation.
- Procedure to refinance a same institution SBA-guaranteed loan:
 - A lender may refinance one of its own SBA-guaranteed loans only if it is unable to modify the terms of the existing loan because a secondary market investor will not agree to modified terms.
 - Must be processed in the LGPC.

Ownership Changes

Change of ownership may be accomplished through

- a stock purchase (including a stock redemption) or
- an asset purchase (an asset purchase will be deemed a change of ownership and must comply with all of the following requirements if Small Business Applicant(s) is purchasing all or substantially all of the assets of Seller's business or is otherwise continuing operations of the Seller's business);

Ownership Changes

If the following are met:

- Change of ownership will promote the sound development and/or preserve the existence of a small business;
- Change of Ownership Between Existing Owners: A change of ownership between existing owners may be financed under the following circumstances:
 - An existing owner(s) of the small business is purchasing the ownership interest of another owner(s), resulting in 100% ownership of the business by the purchasing owner(s); or
 - The small business is redeeming the ownership interest of an owner(s), resulting in 100% ownership of the small business by the remaining owner(s); and

Ownership Changes

- Change of Ownership Resulting in a New Owner: A change of ownership resulting in a new owner may be financed under following circumstances:
 - A small business is purchasing 100% of the ownership interest in another business;
 - An individual(s) who is not an existing owner is purchasing 100% of the ownership interest in a small business; or
 - A small business is acquiring another small business through an asset purchase.

The seller may not remain as an officer, director, stockholder or key employee of the business. (13 CFR § 120.130) (If a short transitional period is needed, the small business may contract with the seller as a consultant for a period not to exceed 12 months including any extensions.)

Ownership Changes

An SBA-guaranteed loan cannot be made solely to an individual. Small business must be either the Borrower or a Co-borrower as follows:

- an existing owner(s) of the small business is purchasing the ownership interest of another owner(s), resulting in 100% ownership of the business by the purchasing owner, or;
- an individual(s) who is not an existing owner is purchasing 100% of the ownership interest in a small business.;

The Note must be executed, jointly and severally, by both the individual(s) who acquires the ownership interest(s) and the small business whose ownership interest is being acquired. If the small business denies liability for the debt based on an alleged failure of consideration under applicable state law, SBA may deny liability on its guaranty.

Ownership Changes

- In a change of ownership where the small business is redeeming the ownership interest of an owner(s), resulting in 100% ownership of the small business by the remaining owner(s):
 - the small business must be the Borrower and the remaining owner(s) may be Co-borrower(s) or Guarantor(s).
- In a change of ownership where
 - A small business is purchasing 100% of the ownership interest in another business; or
 - A small business is acquiring another small business through an asset purchase;

the acquiring entity may be the Borrower or the acquiring entity and the small business being acquired may be Co-borrowers.

Ownership Changes

Lender's loan documentation must include:

- A current business appraisal (not to include any real estate) by the lender or an independent third party hired by the lender with proven experience in business valuations.
- A site visit of the business being acquired. The lender must document in its loan file the date of the site visit as well as comments.
- A real estate appraisal for commercial real estate that meets SBA's requirements.
- An analysis as to how the change of ownership will promote the sound development and/or preserve the existence of the business. If the analysis cannot support the change of ownership will be in the best interests of the business and its continued, successful operations, then the loan request must not be submitted to SBA for its guaranty

Ownership Changes

If the Borrower will be acquiring the small business's real estate in a separate transaction with a non-SBA guaranteed loan, the SBA loan must:

- receive a shared lien position (pari passu) on the real estate with the non-SBA guaranteed loan. This provision does not apply if business real estate is being financed as part of a 504 project.

If you are a delegated lender (Preferred Lender Program or "PLP") and the loan request includes intangibles:

- see pages 120-121 of SOP 50 10(5)H for minimum equity injection requirements or contact your LRS.

Lender Verification of Business Valuation Financial Data. You must obtain a copy of the financial information relied upon by the individual who performed the business valuation and verify that information against the seller's IRS transcripts to ensure the accuracy of the information.

Business Appraisal Requirements

Determining the value of a business (not including real estate which is separately valued through an appraisal) is the key component in an analysis of any loan application for a change of ownership.

- Through SOP 50 10(5) H, SBA now sets out different policies for:
 - Non-Special Purpose Properties
 - Special Purpose Properties

Non-Special Purpose Properties

- If the amount being financed (including any 7(a), 504, seller, or other financing) minus the appraised value of real estate and/or equipment being financed is \$250,000 or less, the lender may perform its own valuation of the business being sold, unless the lender's internal policies and procedures require an independent business appraisal from a **qualified source**.
- If the amount being financed (including any 7(a), 504, seller, or other financing) minus the appraised value of real estate and/or equipment is greater than \$250,000 or if there is a close relationship between the buyer and seller (for example, transactions between family members or business partners), the lender must obtain an independent business appraisal from a **qualified source**.
- *NOTE: We have a spreadsheet which can be used to prepare business valuation!*

Non-Special Purpose Properties

A “qualified source” is an individual who regularly receives compensation for business valuations and is accredited by one of the following recognized organizations:

- Accredited Senior Appraiser (ASA) accredited through the American Society of Appraisers;
- Certified Business Appraiser (CBA) accredited through the Institute of Business Appraisers;
- Accredited in Business Valuation (ABV) accredited through the American Institute of Certified Public Accountants;
- Certified Valuation Analyst (CVA) accredited through the National Association of Certified Valuation Analysts; and
- Accredited Valuation Analyst (AVA) accredited through the National Association of Certified Valuation Analysts.
- Accredited Business Certified Appraiser (ABCA) accredited through the International Society of Business Analysts.

Special Purpose Properties

A “Special Purpose Property” is a limited-market property with a unique physical design, special construction materials, or a layout that restricts its utility to the specific use for which it was built.

- If amount being financed (including any 7(a), 504, seller, or other financing) minus the appraised value of real estate and/or equipment being financed is \$250,000 or less, lender may perform its own valuation of the business being sold, unless the lender’s internal policies and procedures require an independent business appraisal from a qualified source.
- When loan financing any portion of the acquisition of a business is over \$250,000 or if there is a close relationship between the buyer and seller (for example, transactions between family members or business partners), lender must obtain an independent appraisal performed by a Certified General Real Property Appraiser.

Special Purpose Properties

- Appraisal must allocate separate values to the individual components of the transaction including land, building, equipment and intangible assets.
- Certified General Real Property Appraiser must have completed no less than four going concern appraisals of equivalent special use property as the property being appraised, within the last 36 months, as identified in the qualifications portion of the Appraisal Report.
- Each appraisal assignment under this section must be undertaken with a specific instruction for the Certified General Real Property Appraiser to conduct the appraisal in compliance with current USPAP guidelines.

All Business Appraisals

- Business appraisal must be requested by and prepared for lender (may not use valuation prepared for applicant or seller).
- Cost of appraisal may be passed on to Small Business Applicant.
- Scope of work should identify whether transaction is an asset purchase or stock purchase and be specific enough for individual performing business appraisal to know what is included in the sale (including any assumed debt).
- Business appraisal must include individual's opinion of value, qualifications of individual performing appraisal and their signature certifying to the information contained in appraisal.
- Any amount in excess of business appraisal may not be financed with SBA guaranteed loan.
- Lender Verification of Business Appraisal Financial Data Lender must obtain a copy of the financial information relied upon by the individual who performed the business appraisal and verify that information against the seller's IRS transcripts to ensure the accuracy of the information.

When to Obtain An Appraisal

- If application will be submitted to the LGPC (i.e. under non-delegated program), business appraisal must be submitted as part of the loan application.
- If the application will be submitted under delegated authority:
 - business appraisal may be obtained and reviewed after the issuance of an SBA loan number and prior to closing.
 - If lender is processing the application under delegated authority and requests the business appraisal after issuance of an SBA loan number, credit memorandum must include an estimate of the value of the business.
 - credit memorandum must be updated after receipt of the business appraisal to include a comparison of the loan amount and the business appraisal.

Real Estate Appraisal Requirements

Commercial Real Estate

- SBA requires a real estate appraisal if the SBA-guaranteed loan is **greater than \$250,000*** AND is **collateralized by commercial real property**.
- For all loans greater than \$250,000 secured by commercial real property:
 - **Federally regulated lenders:**
 - must obtain an appraisal by a state licensed or certified appraiser and otherwise follow their primary regulator's FIRREA requirements for real estate appraisals. Appraisals must be in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).
 - SBA requires that completed appraisals be dated within 12 months of application for guaranty, and that federally-regulated lenders comply with SBA requirements regarding other fixed assets and additional appraisal requirements for changes of ownership as outlined in SOP 50 10(5). **No Exemption is granted under the Interagency Appraisal and Evaluation Guidelines dated December 2, 2010 for Transactions Insured or Guaranteed by a US Government Agency.** (www.fdic.gov/news/news/financial/2010/fil10082a.pdf).

Real Estate Appraisal Requirements

- **SBA Supervised Lenders** must follow these appraisal requirements.
 - Appraiser must be:
 - independent and have no appearance of a conflict of interest (such as a direct or indirect financial or other interest in property or transaction); and
 - either State-licensed or State-certified with following exception: when commercial property's estimated value is over \$1,000,000, the appraiser must be State-certified.
 - In order for appraiser to identify the scope of work appropriately, appraisal must identify lender as client and/or an intended user of appraisal, as those terms are defined in USPAP.
 - **Lender may not use an appraisal prepared for the seller or the applicant.** The cost may be passed on to the Small Business Applicant.
 - Appraisal must be an “Appraisal Report” prepared in compliance with USPAP.
 - If loan will be used to finance new construction or substantial** renovation of an existing building, appraisal must estimate what market value will be at completion of construction.
 - After construction is completed, lender must obtain a statement from appraiser, general contractor, project architect, or construction management firm that building was built with only minor deviations (if any) from plans and specifications upon which original estimate of value was based.
 - If lender cannot obtain such a statement, then lender may not close the loan without SBA's prior written permission.

Real Estate Appraisal Requirements

Notes from previous two slides!

*SBA or lender may require an appraisal of real property by a State licensed or certified appraiser in connection with a loan for \$250,000 or less, if such appraisal is necessary for appropriate evaluation of creditworthiness.

**“Substantial” means rehabilitation expenses of more than one-third of purchase price or fair market value at time of application.

Occupancy Requirements

- Construction of new building – Applicant business
 - must occupy at least 60% of rentable property for the term of the loan;
 - may lease long term no more than 20% of rentable space;
 - plan to occupy within 3 years some of the remaining space and occupy within 10 years all rentable property not leased long term.
- Purchase/Renovation of an existing building – Applicant business must occupy long term at least 51% of the rentable property.
- Loan proceeds cannot remodel or convert rentable space.
- Definition of Rentable Property - total square footage of all buildings or facilities used for business operations excluding vertical penetrations (stairways, elevators, and mechanical areas that are designed to transfer people or services vertically between floors), and including common areas (lobbies, passageways, vestibules, and bathrooms).
 - Rentable property may also include exterior space (except parking areas) that is actively used in Borrower's business operations. Examples include:
 - outdoor storage yards for general contractors, trucking companies, and moving and storage companies; or
 - boat slips and docks for marinas.
 - Lender/CDC must document in its loan file the basis for determining that the exterior space is actively used in Borrower's business operations.

This rule also applies to
504 loans.

Franchises

- Determination must be made as to whether franchisee is affiliated with franchisor, which would make the franchisee ineligible.
- Affiliation may arise through common ownership, common management or excessive restrictions imposed by the franchise agreement.
- SBA has established a Franchise Registry, www.franchiseregistry.com which lists franchises that do not have an affiliation problem.
 - Lender needs to obtain a “Certificate of Franchise Documents” form signed by Franchisor.
 - Check the Franchise Findings List at www.sba.gov/for-lenders.
- If a franchise is not listed on Registry, an eligibility review must be performed. Lender must obtain from franchisee:
 - Franchise Disclosure Document (FDD) and
 - Franchise Agreement
- Determine that the business meets SBA’s other eligibility criteria (e.g. Curves).

Franchises

Review and determination must be conducted by:

- SBA--for all loans processed through LGPC, including CLP.
- Lender--for PLP, SBA Express, or any other delegated processing method, except that delegated lenders also have option of submitting franchise agreement documentation to SBA for an affiliation determination. **In such case, documentation must be sent to DelegatedFranchiseReviews@sba.gov.** SBA will notify lender of its determination after completing its review. If SBA determines that parties are not affiliated based on the agreement and any supplemental documentation, lender may continue to process application under its delegated authority.

Questions



Contact Information

- Rick Haney at Richard.haney@sba.gov or (304) 623-7449
- Leo López at Leo.Lopez@sba.gov or (304) 347-5220
- WV Lenders Website:
 - <https://www.sba.gov/offices/district/wv/clarksburg/resources/west-virginia-lender-resources>