



SBA Information Notice

TO: All SBA Employees

CONTROL NO.: 5000-1276

SUBJECT: SOP 50 57 Technical Corrections

EFFECTIVE: 04/29/13

In January of 2013, SBA announced the issuance of Standard Operating Procedure (SOP) 50 57 (7(a) *Loan Servicing and Liquidation*) which became effective on March 1, 2013. During the past few weeks, Agency staff have received and reviewed questions and comments from program participants, including Lenders, representatives of various trade associations, and SBA personnel regarding the SOP. Because of this feedback, SBA has made the technical corrections listed below to clarify the SOP. Please note that the page numbers shown below correspond to the page numbers on the copy of SOP 50 57 posted to SBA's Web site.

Chapter 1. Introduction

Page 7, Note Box After Paragraph A (Purpose): The word "initial" was replaced with "final" to clarify that a loan moves from "approval" status to "regular servicing" status after the final loan disbursement has been made. For consistency, the references to loans that have been approved but not fully disbursed were deleted in Chapter 2 (Definitions), Page 18, Paragraph 36.d (Loan Guaranty Processing Center) and Chapter 6 (Servicing Requests), Page 47, Paragraph C.2 (Where to Submit Requests).

Page 7, Paragraph D (Performance Standards): The words "SBA loans must be serviced and liquidated" were replaced by "All Lenders must service and liquidate their SBA loans" to make it clearer that all lenders—not just nationally-chartered and state-chartered lenders—must service and liquidate their 7(a) loans in a diligent, commercially reasonable manner that is free of conflicts of interest and Preferences, and is consistent with the Loan Authorization, prudent lending practices and the SBA Loan Program Requirements in effect at the time the action is taken.

Chapter 2. Definitions

Pages 16-18, Paragraph 49 (SBA Loan Center): The definition of the "SBA Loan Center" was changed to take into account the loan servicing functions conducted by the US Export Assistance Centers (USEACs). To accomplish this, references to EWCP loans in regular servicing status were removed from subparagraphs b, c, and d (East and West Commercial Loan Servicing Centers and the Standard 7(a) Loan Guaranty Processing Center); and subparagraph e was added to include USEACs, the type and status of loans they service, and a list of USEACs that includes contact information for each.

EXPIRES: 04/01/14

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SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete
Must be accompanied by SBA Form 58

Chapter 3. Lender Responsibility and Authority

Page 22, Paragraph C.2 (Unilateral Decisions that Require Notice to SBA): [E-Tran](#) was added as a method of notifying SBA when Lenders take substantive unilateral actions; a hyperlink to the [7\(a\) Lenders Servicing and Liquidation Matrix](#) was added as a resource tool; and Subparagraph a (Decrease the Loan Amount) was deleted because SOP 50 57 only applies to fully disbursed loans.

Page 25, Paragraph D.6.b (Exception-Litigation Hold): A Note Box was added to clarify what is meant by “reasonable anticipation of litigation.”

Page 26, Paragraph E.2 (Borrower’s Creditworthiness): Subparagraph d was rewritten to mirror the language in SOP 50 10 with regard to SBA’s prohibition against lenders charging a default interest rate or a separate servicing fee for past due financial statements.

Page 27, Paragraph E.5 ([Loan Monitoring] Insurance): A subparagraph was added to make it clear that loans should be monitored to ensure that adequate insurance coverage is in place throughout the life of the loan.

Page 27, Paragraph F (Reporting Requirements): Added a new subparagraph to make it clear that lenders should be reporting to the appropriate credit bureaus throughout the life cycle of the loan – not just after charge-off.

Chapter 4. Loan Payment Administration

Page 29, Paragraph A.1 (Payments on Loans in Regular Servicing Status): Because Lenders must always comply with the terms of the Note, the phrase “Unless the terms of the Note specify otherwise...” now precedes the statement setting out the order in which funds from payments on loans in regular servicing status are applied to the loan balance.

Page 29, Paragraph A.2 (Payments on Loans in Liquidation Status): Two new subparagraphs were added to clarify the legal differences between loans in regular servicing status and loans in liquidation status, when loans in liquidation status should be returned to regular servicing status, and to emphasize the importance of consulting legal counsel before accepting any payment, other than payment in full, on a loan in liquidation status. In addition, the subsection on post-guaranty purchase servicing fees on the SBA portion of interest payments is now set out in a separate paragraph.

Page 31, Paragraph C.2 ([Prepayment of] Loans Sold on Secondary Market): A direct quote from the most current version of the Secondary Market Guaranty Agreement ([SBA Form 1086](#)) was added to help users recognize that the notice requirements in the loan authorization apply to the borrower, whereas the notice requirements in SBA Form 1086 apply to the lender if the loan was sold on the secondary market.

Page 32 Note Box: The state-specific examples were eliminated, and the note is now a general reminder to comply with state-specific laws when releasing collateral.

Chapter 7. Modification of Note

Page 50, Paragraph F.2 (Additional Guaranty Fee): The last sentence in Subparagraph a (Loans in Regular Servicing Status) was amended to clarify that lenders are not required to obtain SBA's prior approval of a maturity date extension, but should provide evidence that the additional guaranty fee has been paid when they notify SBA of the extension.

Page 51, Paragraph G (Loan Balance): The caption was changed from "Loan Balance" to "Loan Amount," the paragraph was rewritten, and a Note Box was added to emphasize the distinction between increasing the amount of the original loan by modifying the note, as opposed to increasing the balance owed on a fully disbursed loan by adding recoverable expenses to the principal balance.

Chapter 8. Modification of Collateral Requirements

Page 53, Paragraph A. 2 (Subordination to Facilitate Refinance of a Senior Loan): The recommendation that the term of the refinanced senior loan equal or exceed the term of the original senior loan was deleted to make it clearer that lenders have the necessary discretion to enable borrowers to refinance on more favorable terms (e.g., 15 as opposed to 30 year mortgages on their homes) as long as the subordination will not adversely affect the priority of the lien securing the SBA loan.

Page 57, Paragraph G (Release of Guarantor or Co-Borrower): The paragraph was re-written and divided into two sections (loans in regular servicing status and loans in liquidation status) in order to clarify SBA's long standing policy on release of Obligor in conjunction with the sale or reorganization of the Borrower as well as release of guaranties taken as additional collateral, as opposed to release of Obligor on loans in liquidation status.

Chapter 9. Insurance

Page 60, Paragraph C.5 (Release of [Hazard Insurance] Policy Proceeds): The words "to the policyholder-Obligor" were deleted to clarify that this provision applies regardless of who is to receive the proceeds; and the words "or repair" were added to clarify that the prohibition against construction liens applies to real and personal property collateral. In addition, at the request of OCRM, the words "or custodial" were added to subparagraph b to give lenders the option of using a "custodial" account as an alternative to a joint savings account to control disbursement of progress payments.

Page 62, Paragraph E. 2 ([Flood Insurance] Events Triggering Review of Coverage Amount): The caption and paragraph were edited to clarify that "The need for flood insurance" as well as the adequacy of any existing flood insurance coverage, should be reviewed whenever the Borrower makes a Servicing Request; and the reference to FEMA Form 81-93 was deleted because FEMA is in the process of changing the number and revising the form.

Chapter 10. Modification of Management Covenants

Page 64, Paragraph D (Standby Agreements): Corrected a typographical error in subparagraph b to clarify that the borrower's cash flow for the past three "years" rather than three "months" should be analyzed before a standby agreement required by the loan authorization is modified or terminated.

Chapter 12. Deferrals

Page 67, Paragraph D (Deferred Amount): At the request of OCRM, examples of methods that lenders can use to monitor the Borrower's operations during the deferment period were added to subparagraph 1.

Chapter 13. Delinquent Senior Loans

Page 72, Paragraph C.3.b (When to Enter [a Protective Bid]) and Paragraph C.3.c (Take a No Bid Position): The paragraph on protective bids now includes (1) a reminder that a protective bid is not necessary if the collateral can be abandoned, i.e., the recoverable value is less than \$10,000 for real property and \$5,000 for personal property collateral; and (2) an example of how to perform the mathematical calculation used to determine whether a protective bid is required.

Chapter 14. Classifying Loans in Liquidation

Page 75, Paragraph A (When Loans Should be Classified in Liquidation): The original paragraph was deleted and replaced by an introduction and three new paragraphs that make it clear that: (1) Lenders should make a good faith effort to help delinquent Borrowers bring their loans current; (2) if a payment default cannot be cured, the Note should be accelerated and demand made on the Obligors; and (3) upon acceleration: (a) the loan must be classified in liquidation; (b) the SBA guaranteed portion must be re-purchased from the secondary market; (c) a Liquidation Plan prepared and implemented without further delay; (d) payments must be applied pursuant to the policy and procedures in Chapter 4; and (e) recoveries must be applied pursuant to the policy and procedures in Chapter 22.

Page 76, Note Box after B.3 (Demand Letters): The first sentence was deleted to make the Note easier to read and understand, and the Paragraph letter was changed from B to D.

Page 76, Note Box after Paragraph D (Obligors in Active Military Service): All of the basic provisions of the *Servicemember's Civil Relief Act* referred to in the Note are now included in the second sentence, and the Paragraph letter was changed from D to F.

Pages 77-79, Paragraph E (Liquidation Plans): Paragraph E was modified to make it clear that SBA requirements pertaining to Liquidation Plans apply to CLP Loans, and do not apply to CLP Lenders unless the loan was made under the Lender's CLP authority and the Paragraph letter was changed from E to G.

Chapter 15. Site Visits

Page 82, Paragraph C (Goals): The introductory sentence was revised to remind users that the chapter covers “post-default” site visits and is intended to help lenders “gather sufficient information” to make prudent liquidation decisions.

Chapter 16 Workouts

Page 85, New Paragraph B (Required Financial Information): Clarified that sufficient financial documentation is essential in order for lenders and SBA to make informed decisions regarding the feasibility and structure of proposed workout plans by adding a new paragraph that requires Borrowers who wish to engage in workout negotiations to provide the same type of basic financial documentation as is required for an offer in compromise.

Chapter 18. Liquidation of Personal Property collateral

Page 106, Paragraph D.1 ([Credit Bids at] Non-judicial Foreclosure Sales): An example was added to illustrate when it may be prudent to enter a credit bid based on the “high estimated Recoverable Value” of the collateral.

Page 108, Paragraph E (Abandonment): Corrected a typographical error to clarify that personal property may be abandoned if the individual or aggregate Recoverable Value is less than \$5,000 – not \$5,000 or less.

Chapter 19. Acquired Collateral

Page 115, Paragraph H (Abandonment): To eliminate confusion, Subparagraphs 1 and 2 were deleted and the paragraph was rewritten to require abandonment of acquired collateral to be treated as an exception to policy in accordance with the procedures set out in Chapter 1.

Chapter 21. Litigation

Page 129 Paragraph F.3 (Litigation Expenses That are Presumed to be Unreasonable): The words “Travel costs” were replaced with “Attorney fees and costs associated with travel” to clarify that when listing travel costs in their Litigation Plans, Lenders should include attorney fees for travel time, if any, as well as the cost of plane tickets, hotels, meals, etc..

Page 131, Paragraph J.3.b (Bankruptcy Proceedings): The words “at the time the loan was made” were deleted to clarify that Lenders should compare the Obligor’s bankruptcy financial statements and schedules to any financial documents that the Obligor submitted to SBA and the Lender—not just the ones the Obligor submitted at the time the loan was made.

Page 133, Paragraph K.2 (Probate Proceedings): The words “at the time the loan was made” were deleted to clarify that Lenders should compare the inventory filed in the deceased Obligor’s probate proceedings to any financial documents that the Obligor submitted to SBA and the Lender—not just the ones the Obligor submitted at the time the loan was made.

Chapter 22. Expenses and Recoveries

Page 135, Paragraph A.1 (Non-recoverable Expenses): The word “Lender” was inserted at the beginning of Subparagraph c, to clarify that the example pertains to lender overhead costs, as opposed to the telephone calls, etc., that debt collection attorneys include in their billing statements as a matter of standard industry practice.

Page 137, Paragraph B.2 (Remittance of SBA's Share of Recoveries): The phrase “whether the guaranty has been purchased” was deleted to clarify that lenders are not required to share the proceeds of recoveries with SBA on a pro-rata basis until after SBA has honored its guaranty.

Chapter 26. Charge-off and Wrap-up Procedures

Page 165, Paragraph F (Credit Bureau Reporting): A new subparagraph with the caption “Responsibilities” was added to clarify that although SBA and lenders must both report their pro-rata share of each charged-off loan balance to the appropriate credit reporting bureaus, SBA is solely responsible for reporting to Federal Government delinquent debtor databases such as CAIVRS and Debt Check.

In addition to the foregoing, formatting, spelling, grammatical, and punctuation errors were corrected throughout the SOP.

The revised SOP with the technical corrections has been re-posted to SBA’s website and can be found at <http://www.sba.gov/about-sba-services/7481>.

Questions regarding SOP 50 57 should be directed to the lender relations specialist in the local SBA field office. The local SBA field office can be found at www.sba.gov/localresources.

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