



# SBA Information Notice

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**TO:** All SBA Employees

**CONTROL NO.:** 5000-1217

**SUBJECT:** Issuance of SOP 50 10 5(D) – Lender  
and Development Company Loan  
Programs

**EFFECTIVE:** 9/16/2011

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The Office of Financial Assistance is announcing the issuance of an update to the Standard Operating Procedure (SOP) 50 10 5. This update to the SOP will be known as SOP 50 10 5(D) and will be effective on October 1, 2011. This version of the SOP will apply to all applications received by SBA on or after October 1, 2011.

As with previous editions of SOP 50 10 5, SBA will post two versions on the web site. The first version will show all changes as “tracked changes” to enable users to more easily identify what has been modified. (As a note, the Table of Contents has been updated but, for ease of viewing, those changes are not shown.) The second version incorporates all of the changes into the document. The revised SOP may be found under the [Lender’s tab](#) on SBA’s website ([www.sba.gov](http://www.sba.gov)).

The following is a summary of the key changes made to this version of the SOP. Many of the changes are in response to questions and comments received from lenders and CDCs through the SOP mailbox or through the district offices and processing centers. The changes identified below fall into two categories: simplification and risk management. There is a third section below to identify minor, miscellaneous changes or clarifications.

Changes Resulting in Simplification of the Loan Application Process including Clarification of Existing Policy as well as Incorporating Changes in Policy that Occurred During the Year

- Summary of Small Business Jobs Act changes that have been added: Maximum 7(a) loan amount increased to \$5 million; Export Express has changed from a pilot loan program to a permanent loan program; Export Working Capital Program and International Trade loans maximum loan amount has been increased to \$5 million with a maximum guaranty of 90 percent; and maximum amount of a 504 debenture increased to \$5 million except for energy consumption reduction projects, renewable energy or renewable fuels projects, and projects for small manufacturers which are eligible for a maximum debenture amount of \$5.5 million.
- Community Adjustment and Investment Program: The definition has been expanded to describe the existing process available to lenders and CDCs to request a refund of the guaranty fee for eligible small businesses located in a county or defined area within a county noted as being negatively affected by NAFTA.

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- Interest Rate changes between application and first disbursement: This policy was modified to allow a lender to change the initial 7(a) Note rate, including changing the base rate, the spread over the base rate, or from a fixed rate to a variable rate or from a variable rate to a fixed rate, provided the new interest rate does not exceed the maximum allowable interest rate in effect at the time of the loan application.
- EPC/OC and Change of Ownership: Clarified that an EPC/OC structure may not be used for a change of ownership as the regulations governing EPC/OC borrowing structures limit the use of proceeds for a loan to an Eligible Passive Company to acquiring or leasing, and/or improving or renovating real or personal property that it leases to one or more Operating Companies.
- Trusts as Owners of a Small Business: Clarified how to apply the Utilization of Personal Resource test, who completes an SBA Form 912 and what guaranties are required when an owner of a small business is a trust.
- ETran Use: Requires that lenders use ETran when submitting loans to SBA under any delegated authority. This includes PLP (including PLP-EWCP), Small Loan Advantage, SBA Express, Patriot Express, Export Express and Dealer Floor Plan loans.
- Eligibility Authorized SBA Express and Patriot Express Lenders: Deleted this feature. This will streamline the renewal process for delegated authority, as this was a separate authority that required additional review by SBA and additional supplemental guaranty agreements for the lenders. With the requirement that all delegated lenders use ETran for their loans processed under delegated authority, there is no substantial difference between processing loans as an eligibility authorized or non-eligibility authorized SBA Express or Patriot Express lender. Lenders with this authority may continue to exercise it until their Supplemental Loan Guaranty Agreement (Eligibility Authorized) term expires.
- Small Loan Advantage: SLA, which was implemented during the year, was added. SLA allows PLP lenders to use the streamlined application forms developed for Small/Rural Lender Advantage for the PLP lender's smaller loans of \$250,000 or less.
- CAPLines: Significantly modified the requirements for Standard Asset-Based CAPLines and Contract CAPLines to more closely align with existing practices of lenders who provide asset-based and contract-based working capital lending. Changed the name of Standard Asset-Based CAPLines to Working Capital CAPLines. Eliminated Small Asset-based CAPLines. Expanded access to the program by allowing PLP lenders to make CAPLines under their delegated authority. Permits delegated lenders to use the abbreviated application forms originally designed for SBA Express.
- 7(a), CLP, S/RLA, SLA (non-delegated) and CAPLines (non-delegated) authorization modification requests: Through final disbursement, all requests are to be sent to the Standard 7(a) Loan Guaranty Processing Center. (For EWCP loans, submit the request to the appropriate USEAC.)

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- 504 Borrower Contribution: Removed the word “equity” from the paragraph describing the required borrower contribution in a 504 project.
- 504 Refinancing: Revised language regarding 504 debt refinancing to correspond to changes in the regulations.
- 504 Loan that is canceled: Clarified that the CDC must ensure that all recorded documents are canceled of record (officially canceled at the place of recordation, as required by law), if a 504 loan is canceled after closing but before funding.

#### Changes that Seek to Improve SBA’s Management of Risk

- Loan Agent Data: Included the SBA requirement issued during the year that lenders submit any completed Form 159 that describes any agent that provided packaging or referral services to Colson after the first disbursement of the loan.
- Delinquent Debt: Included the fact that, under the Debt Collection Improvement Act, any business that is currently delinquent on federal government debt (excluding federal taxes) or which has an owner, guarantor, or affiliate that is currently delinquent on federal government debt is ineligible for an SBA guaranteed loan. This had previously been inadvertently omitted from the SOP.
- Life Insurance: Clarified when life insurance must be required and added language that allows a lender to escrow life insurance payments.
- OREO transactions: Allows the 7(a) participating lender to receive a sales price that exceeds the mortgage balance plus care and preservation expenses or the liquidation value, whichever is less, as long as the SBA guaranty is reduced accordingly.

#### Miscellaneous Changes

- Clarified the flood insurance requirements for condominiums and coops that are located in a flood hazard zone.
- Clarified that the restrictions on the amount of space that a small business may rent to a third party is the same whether it is for a commercial enterprise or for residential use.
- Clarified the procedures for transferring the guaranty on loans that have not been fully disbursed from one lender to another.
- Clarified the procedures to merge two CDCs and the procedures for voluntary withdrawal of a CDC and transfer of the CDC’s portfolio.

- Clarified the district counsel’s role in reviewing an application from a credit union to become a 7(a) participating lender.
- Clarified that educational savings accounts and trusts must have a “tax-advantaged” status to be excluded from “liquid assets.”
- Clarified that construction escrow closings are the only type of escrow closings allowed for 504 loans.
- Added language regarding interest rate swaps for Third Party Loans in a 504 financing transaction.
- Removed Community Express from the SOP because it expired on April 30, 2011.
- Additional guidance was added for the Franchise Registry.
- Clarified that situations where SBA will have a senior lien position on the collateral do not constitute a “piggyback loan structure.”
- Clarified that personal loans where proceeds were used in the business are not eligible to be refinanced. The provisions concerning the refinancing of credit card debt used for business purposes were not changed.
- Centralized the review and approval of Lender Service Provider agreements in the Standard 7(a) Loan Guaranty Processing Center.
- Clarified what fees may and may not be charged to a small business applicant, depending on the program.
- Clarified the eligibility of domestic businesses owned by foreign entities.
- Updates were made to the section on Environmental Issues.
- Clarified when a CDC must submit an appraisal at time of application.

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Additional Information

Lenders, CDCs and other interested parties may continue to send suggestions concerning the SOP to SBA at [SOP50-10Modernization@sba.gov](mailto:SOP50-10Modernization@sba.gov). This e-mail box is set up to receive only.

Questions regarding SOP 50 10 5(D) should be directed to the lender relations specialist in the local SBA field office. The local SBA field office may be found at [www.sba.gov/about-offices-list/2](http://www.sba.gov/about-offices-list/2).

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