



SBA Procedural Notice

TO: All SBA Employees

CONTROL NO.: 5000-1310

SUBJECT: SOP 50 10 5(F) Technical
Corrections

EFFECTIVE: 03-27-14

On September 25, 2013, SBA announced the release issuance of Standard Operating Procedures (SOP) 50 10 5(F) (*Lender and Development Company Loan Programs*) that would become effective on January 1, 2014. In the interim and prior to the effective date of the SOP, the Patriot Express Pilot Loan Initiative terminated, and the Office of Financial Assistance received and reviewed questions and comments from internal and external sources regarding the SOP. As a result, SBA has made technical corrections to SOP 50 10 5(F) to remove references to the Patriot Express Pilot, where applicable, and to provide greater clarity and improved understanding.

I. As published in Notice 5000-1293, the Patriot Express Pilot Loan Initiative expired 12/31/2013. Where appropriate, references to the Patriot Express Pilot Loan Initiative have been removed from SOP 50 10 5(F).

II. SOP 50 10 5(F) Technical Corrections.

SUBPART A

Chapter 1: 7(a) Lenders

Lenders are responsible for consulting the System for Awards Management's (SAM) to determine if their employees or Agents have been debarred, suspended or otherwise excluded by SBA or other federal agency.

Replace <http://www.epls.gov> with <http://www.sam.gov> for suspension and debarment reviews.

SUBPART B

Chapter 1: General Description of the 7(a) Loan Programs

References throughout SOP 50 10 5(f) to small loans up to and including \$350,000 as "Small Loan Advantage" and "SLA" have been replaced with "7(a) Small Loans". The 7(a) Small Loan is the only classification for 7(a) loans up to and including \$350,000 (except SBA Express, EWCP Express and Community Advantage). SLA will no longer be the acronym for the 7(a) small loan program.

EXPIRES: 03-01-16

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SBA Form 1353.2 (4-93) MS Word Edition; previous editions obsolete
Must be accompanied by SBA Form 58

Chapter 2: Eligibility Requirements

I. *Removed references to Forms 1920SX, 1920SX Part B and 1920SX Part C throughout the SOP, and replaced with Form 1920. The updated Lender application form is SBA Form 1920.*

II. *Prior Loss to the Government and Delinquent Federal Debt:*

Clarified that delegated lenders are responsible for accessing their records in E-Tran to determine if any prior loss has been experienced, as Lenders may only access their own portfolio in E-Tran.”

With regard to Delinquent Federal Debt, the SOP was revised to remove a duplicated paragraph and replace it with language indicating the lender’s responsibility to check CAIVRS to determine the existence of Delinquent Federal Debt.”

III. *Eligible Loan Proceeds – Policies Regarding Debt Refinancing.*

Language added to clarify that debt used to finance a change of ownership is eligible under debt refinancing, except that:

Refinancing institutional loans within 6 months of the change of ownership may not be processed under delegated authority, and

*To be eligible for refinancing, any seller financed note must have been in place for 24 months following the change of ownership, and must have been current for the past 24 months. The refinancing request must meet the requirements set forth in paragraphs 4 and 5 below, and
Also clarified is that refinancing of existing 504 loans may not be processed under delegated authority..*

Chapter 3: Loan Terms and Conditions

No change other than spelling/grammar.

Chapter 4: Credit Standards, Collateral and Environmental Policies

Credit Worthiness/Credit Underwriting:

Credit Standards – Preamble added to further define categories of underwriting. Inserted “Credit underwriting requirements are separated into three categories. The first is for “7(a) Small Loans” formerly “SLA” which consists of any loan of \$350,000 or less processed using Standard, CLP, or PLP procedures.

The second is for any loan over \$350,000 processed using Standard, CLP, or PLP procedures. The third is for any loan that is processed using SBA Express or Export Express”.

For debt service coverage ratio for small loans up to and including \$350,000, inserted “must be equal to or greater than 1:1”.

For global cash flow coverage ratio for small loans up to an including \$350,000, inserted “must be equal to or greater than 1:1”.

For verification of applicant’s financial data for small loans up to and including \$350,000, clarity added to the requirement that the credit memo must interpret and discuss the results of the reconciliation of internal financials to the IRS 4506-T transcript.

For loans over \$350,000, language was added to clarify that “Global Cash flow analysis is required that includes assessment of impact on cash flow to/from any affiliate business.

For debt service coverage ratio for loans over \$350,000, language was modified for consistency to “must be equal to or greater than 1.15”.

For refinancing debt that is not Same Institution Debt “(SID”, the requirement for a transcript of account for the prior 24 months was removed. SID refinancing continues to require transcripts for the prior 36 months or the life of the loan whichever is less.

Chapter 4 Section II - Collateral

Users and readers are advised to review this section in the SOP 50 10 5(f) update closely as it has been re-organized to include expanded guidance to clarify that Lenders must consider both what to take and how to value collateral based on loan size and type.

This section has been reorganized to provide definition and clarity on the terms “fully secured”, “fixed assets”, and “Net Book Value”,

“Fully-secured” means if the lender has taken security interests in all available fixed assets with a combined “net book value” up to the loan amount.

“Net book value” is defined as an asset's original price minus depreciation and amortization.

“Fixed Assets” are defined as Real Property, including structures and equipment owned by the business or an EPC.

- i. *New machinery and equipment may be valued at 75% of price minus any prior liens for the calculation of “fully-secured.”*
- ii. *Used or existing machinery and equipment may be valued at 50% of Net Book Value or 80% with an Orderly Liquidation Appraisal minus any prior liens for the calculation of “fully-secured.”*
- iii. *Real estate can be valued at 85% of the market value for the calculation of “fully-secured” and the value must be determined in accordance with the requirements set forth in Paragraph C below.*
- iv. *If there is a collateral shortfall (not fully-secured) on the SBA-guaranteed loan, the lender may include trading assets as necessary (using 10% of current book value for the calculation) and will be required to take available equity in the personal real estate of the principals. Liens on a personal residence or investment property may be limited to the amount of the collateral shortfall;*
- v. *Liens on a personal residence or investment property may be limited to 150% of the equity in the collateral, rather than the loan amount, if there are tax implications associated with the lien amount in the particular state where the lien is filed.*
- vi. *For loans that are more than \$250,000 and collateralized by commercial real estate, lenders must comply with the appraisal requirements set forth in Paragraph II.C 1 below.*
- vii. *SBA does not require a lender to collateralize a loan with a personal real estate to meet the “fully secured” definition when the equity in the real estate is less than 25% of the property’s fair market value.*

For 7(a) loans up to and including \$350,000 (excluding SBA Express and Export Express), the Lender may follow the valuation protocol for its similarly-sized non-SBA guaranteed commercial loans. The concept of fully-secured does not apply to loans up to and including \$350,000. Specifically:

- ✓ *For loans of \$25,000 or less, the lender is not required to take collateral (except SBA Express and Export Express); and*
- ✓ *For loans over \$25,000, up to and including \$350,000, the lender must follow the collateral policies and procedures (what to take and how to value it) that it has established and implemented for its similarly-sized non-SBA-guaranteed commercial loans, but at a minimum the lender must take a first lien on assets financed with loan proceeds and a lien on all of the applicant’s fixed assets to secure the loan; and*

For 7(a) loans in excess of \$350,000, SBA requires that the lender collateralize the loan to the maximum extent possible up to the loan amount. If fixed assets do not “fully secure” the loan, the lender must take available equity in the personal real estate of the principals as collateral.

Assets owned by the Small Business Applicant’s Spouse, When an individual alone or together with his or her spouse own 20% or more of the Small Business Applicant, the

lender must consider taking as collateral a lien on personal real estate (investment or residential) that is owned individually, by the applicant owner, or jointly owned by the individual and his or her spouse.

A link was added to the Interagency Appraisal and Evaluation Guidelines dated December 2, 2010 to provide clarity to regulated lenders as to the circumstances required to be able to use an appraisal prepared for another financial institution.

Chapter 5 – Loan Authorization

The link to IRS website for expedited 4506 –T service was updated to <http://www.irs.gov/Individuals/Income-Verification-Express-Service>.

For non-delegated lenders, additional clarification was added to re-enforce that for loans up to and including \$350,000, the lender is required to reconcile the financial information provided by the borrower with the transcript received from the IRS and must address the results of that reconciliation in their credit memo prior to submission to LGPC.

Chapter 6: Submission of Application For Guaranty

References the small loans \$350,000 and under have been aligned with Chapter 1, Description of 7(a) Loan Programs. 7(a) loans of \$350,000 or less formerly known as “SLA” are referred to throughout SOP 5010 5(f) as “7(a) small loans”. The language on scoring has been modified from “pre-scoring” to “scoring”.

Further, if the loan application does not receive an acceptable credit score, the lender may submit a full standard 7(a) loan application to LGPC.

Inserted “Regardless of the dollar amount or the processing procedure by which the Lender seeks to have their request processed, every request must be made using E-Tran or electronically as noted below”.

A Duns number is recommended for all loans. However, the language was re-instated indicating that it should be provided “if available”. There is no cost to the applicant to obtain a Duns number if done through the SBA website. The link to accomplish that is <http://www.sba.gov/content/getting-d-u-n-s-number>

Language added to clarify that for loans over \$350,000 scoring is not required.

Language added to clarify that for loans of \$350,000 or less processed under SBA Express or Export Express, the total submission of data must be made through E-Tran. There is no requirement to pre score.

Chapter 7: Post-Approval Modifications, Loan Closing & Disbursement

State specific language clarified to re-enforce that current state specific language is always to be included on Authorizations and loan documents.

7(a) small loan terminology (formerly known as “SLA” modified for consistency.

Chapter 8: Post-Disbursement Requests for Changes

Lender Reporting – to clarify lender responsibility to remit ongoing servicing fee when no loan payments are received, inserted “if no payment was received, compute the fee based on the product of a monthly on-going fee factor times the last reported Guaranteed Portion Closing Balance. This on-going fee factor is either one-twelfth of the annual service fee, or a daily fee factor times the number of days in a reporting month.”

SUBPART C

Chapter 1: General Provisions

No Change

Chapter 2: Eligibility

Prior loss was removed from the CAIVRS provision.

Chapter 3: Collateral, Appraisals and Environmental Policies

Formatting Change

Chapter 4: Loan Application Procedures and Controls

Inserted the following language to conform to the certification on Form 1244. “whether submitted contemporaneously with this application or at a later date”.

Chapter 5: Loan Conditions/Authorization Requirements

*Page 301. Inserted current IRS link for express service on 4506-T
<http://www.irs.gov/Individuals/Income-Verification-Express-Service>.*

Chapter 6: Closings

*Removed a sentence regarding the SBA Counsel’s Opinion.
Removed an incorrect statement that the format is found in Appendix D to the Authorization Boilerplate.*

Chapter 7: Debenture Pricing & Funding

No Change

Chapter 8: Allowable Fees

No Change

Chapter 9: Borrower's Deposit, Debenture Pools and Rules Governing the Borrower's Deposit

No Change

Appendices

In Appendices 2 (Definitions) and 3 (Reliance Letter), references to the current ASTM International standard for a Phase I Environmental Site Assessment were updated to ASTM E1527-13.

In Appendix 6, SBA Environmental Indemnification Agreement, the formatting was corrected,

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/for-lenders>

Questions regarding SOP 50 10 5(F) 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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Office of Capital Access