



SBA Information Notice

TO: All SBA Employees

CONTROL NO.: 5000-1321

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

EFFECTIVE: 9/25/14

The Office of Capital Access is announcing the issuance of an update to the Standard Operating Procedure (SOP) 50 10 5 on Lender and Development Company Loan Programs. This update will be known as SOP 50 10 5(G) and will be effective on October 1, 2014. This version of the SOP will apply to applications received by SBA on or after that date.

The majority of the changes in this version incorporate regulatory changes made in the final rule issued March 21, 2014 (79 FR 15641), which became effective 4/21/2014. (Not included in this update are revisions to the CDC corporate governance requirements which become effective April 21, 2015.)

SBA will post two versions of the SOP on the website. The first version will be highlighted to enable users to more easily identify those areas that have been modified. The second version is a clean copy of the new document that incorporates all changes. All users are encouraged to thoroughly review the updated SOP. A summary of the significant changes follows.

SUBPART A – SBA LENDER AND CERTIFIED DEVELOPMENT COMPANY PARTICIPATION REQUIREMENTS

Elimination of Personal Resource Test

The language regarding the personal resource test was removed from Chapter 1, Paragraph IV.C.7.d)ii.(c) (SBA Express Lender's Processing Responsibilities).

SUBPART B – SECTION 7(a) BUSINESS LOAN PROGRAMS

Elimination of Personal Resource Test

The language regarding the personal resource test was removed in the following places:

- Chapter 2:
 - Paragraph II.C (Summary of Eligibility Requirements);
 - Paragraph III.C (Eligibility Requirements, Credit Elsewhere);
 - Paragraphs III.F.2.f) and 3.d) (Eligible Passive Company rule); and
- Chapter 4 - Paragraph I.B.2. (SBA Express and Export Express Credit Standards).

EXPIRES: 9/1/15

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

Additional Changes to Subpart B

- Chapter 2:
 - Paragraph III.D.3.c)vii – clarified the language concerning the eligibility of businesses such as barber shops, hair salons, nail salons, and similar types of businesses;
 - Paragraph III.D.3.n) – clarified the language instructing lenders where to submit completed 912 packages; and
 - Paragraph III.F.2.f) – in accordance with longstanding Agency policy and practice, clarified that for purposes of determining who owns 20% or more of the Eligible Passive Company (EPC) and the Operating Company (OC), spousal ownership interests are combined.
 - Paragraph IV.J.1.d) – clarifying the requirement to fund 70% of general lines of credit for export purposes.

- Chapter 4:
 - Paragraph I.A.1.a) – for 7(a) Small Loans, if an application does not receive an acceptable credit score, added the option for a delegated lender to submit the application under its delegated authority, provided that the lender complies with the credit underwriting requirements for loans over \$350,000;
 - Paragraph III.D. – with regard to Environmental Investigations, clarified the requirements for loans processed under PLP, SBA Express, Export Express and 7(a) Small Loan procedures.
 - Paragraph 1.B.1. – removed reference to Paragraph 1.A.1.
 - Paragraph 1.B.2. – included language clarifying the requirements and circumstances under which an Express lender may use their internal business credit score, formerly located in paragraph 1.A.1.

- Chapter 6:
 - Paragraphs I.A.1.a) and 2.c) – clarified who is required to sign SBA Form 1919;
 - Paragraph I.A.2.t) – clarified the requirement for IRS Form 4506-T; and
 - Paragraph II.B. – for consistency with Chapter 4, included the option for delegated lenders to submit an application for a 7(a) Small Loan that does not receive an acceptable credit score under its delegated authority, provided that lender complies with the credit underwriting requirements for loans over \$350,000.

Subpart C – SECTION 504 CERTIFIED DEVELOPMENT COMPANY LOAN PROGRAM

Elimination of the Personal Resource Test

The language regarding the personal resource test was removed from the following places in Chapter 2:

- Paragraph II.C (Summary of Eligibility Requirements);

- Paragraph III.C (Eligibility Requirements, Credit Elsewhere); and
- Paragraphs III. F.2.f) and 3.d) (Eligible Passive Company rule).

Elimination of the 9 Month Rule

Chapter 1, Paragraph IV.B.3

Updated for the elimination of the 9-month rule.

Chapter 2, Paragraph III.H.4.a) – Eligible Project Costs:

Reorganized the subparagraphs and revised the language on Short Term Debt (Bridge Financing) and expenditures incurred by the Borrower prior to the date of the application so it does not conflict with or otherwise cause confusion due to the elimination of the 9-month rule. These subparagraphs will now read as follows:

- vi. Expenditures for any of the costs listed in subparagraphs i through v above incurred by the Borrower (with its own funds or from a Short Term Debt) prior to the date of application that are directly attributable to the Project, provided such expenditures (net of Borrower’s contribution) are reimbursed by the Interim Lender;
- vii. Short Term Debt (“Bridge Financing”) the purpose of which was to provide financing until longer term financing could be obtained for any of the costs listed in subparagraphs i through iv or in subparagraph vi above that are directly attributable to the Project, provided that the financing is for a term of 3 years or less;

Update of Third Party Lender Collateral Requirements

Chapter 1, Paragraph IV. A.5

This paragraph was updated to remove all references to Third Party Lenders’ preferences and to revise the language allowing Third Party Lenders to take additional collateral under certain circumstances as follows:

5. Unless otherwise approved in writing by the Director of OFPO or their designee, the Third Party Lender may obtain additional collateral or other security for the Third Party Loan in addition to its lien on the Project Property (“Additional Collateral”) only if in the event of liquidation:

- a) The Third Party Lender liquidates or otherwise exhausts all reasonable avenues of collection with respect to the Additional Collateral no later than the disposition of the Project Property, and

b) The Third Party Lender applies any proceeds received as a result of the Additional Collateral to the balance outstanding on the Third Party Loan prior to the application of proceeds from the disposition of the Project Property to the Third Party Loan.

Additional Changes to Subpart C

- Chapter 1:
 - Paragraph IV.C.3. m) - amended to add "...and other lodging facilities." This section previously referred to "hotels and motels" and was amended to clarify that the description includes all types of lodging facilities.

- Chapter 2 (same clarifications made in Subpart B):
 - Paragraph III.D.3.c)vii - clarified the language concerning the eligibility of businesses such as barber shops, hair salons, nail salons, and similar types of businesses;
 - Paragraph III.D.3.q) – with regard to Prior Loss to the government and Delinquent Federal Debt, clarified who the rules apply to; and
 - Paragraph III.F.2.f) – in accordance with longstanding Agency policy and practice, clarified that for purposes of determining who owns 20% or more of the Eligible Passive Company (EPC) and the Operating Company (OC), spousal ownership interests are combined.

- Chapter 3:
 - Paragraph III.D. – with regard to Environmental Investigations, clarified the requirements for loans processed under PCLP procedures.

- Chapter 6:
 - Paragraphs II.B.2. a) and b) were changed to provide that 13 documents must be submitted for a regular 504 closing and 8 documents for an expedited closing. As a result of reviews of 504 loans, the Office of Capital Access in conjunction with the Office of General Counsel determined that a change to the review process should be made to assist in preventing losses in the event of default by the Borrower on construction loans. SBA will review evidence of completion of construction at closing instead of as a part of the Complete File review, which is conducted after a 504 loan has been closed.

 - SBA revised the 504 Closing Checklist (Form 2286) and the 504 Closing Checklist for Complete File Review (Form 2303) to move "Construction Documents" (Item 26 on SBA Form 2303) to Item 8 on both forms. CDCs will be required to submit that evidence for both regular and expedited closings.

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

Notification and Questions

Questions concerning this Notice should be directed to the lender relations specialist in the local SBA Field Office. Local Field Offices may be found at www.sba.gov/localresources or to 7aquestions@sba.gov.

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