



SBA Procedural Notice

TO: All SBA Employees
SUBJECT: 504 Loan Closing Procedures

CONTROL NO.: 5000-1337
EFFECTIVE: March 23, 2015

This Notice updates the guidance provided in SBA Procedural Notice #5000-1327, Corrected 504 Loan Closing Procedures: Waivers of Indemnification Provisions Required at Closing (9/24/14). The Notice stated that SBA was reviewing and assessing the open-ended indemnification issue impacting the 504 Loan Program and was exploring potential solutions. The procedures described in that Notice were intended to be temporary until a full review could be completed and a more permanent solution found.

As part of those efforts, SBA has been in consultation with various colleagues, including those with the Office of Management and Budget. Based on those discussions, SBA's Office of General Counsel has concluded that there are no legal impediments to SBA's taking title to property that is subject to an open-ended indemnification provision. This conclusion is based on the determination that the potential costs of any such indemnifications are allowable under the Federal Credit Reform Act (FCRA), 2 U.S.C. 661-661f, and can be paid from the permanent, indefinite appropriation for credit accounts provided under FCRA. It follows that SBA would not violate the Anti-Deficiency Act or the Adequacy of Appropriations Act if the Agency were to take title to 504 project collateral subject to indemnification provisions. Therefore, as a matter of law, it is no longer necessary to continue the procedures provided in SBA Procedural Notice #5000-1327.

As a result of this, SBA is announcing to SBA employees through this Notice that the procedures provided in SBA Procedural Notice #5000-1327, Corrected 504 Loan Closing Procedures: Waivers of Indemnification Provisions Required at Closing (9/24/14), no longer need to be followed. SBA will continue to manage the risks resulting from indemnifications on 504 loan collateral and provide additional, further guidance if it determines it necessary. Environmental indemnification provisions impacting collateral will continue to be reviewed by SBA.

SBA field offices must notify Certified Development Companies about this Notice. Questions concerning this Notice 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.

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Office of Capital Access

EXPIRES: 3/1/16

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Must be accompanied by SBA Form 58