



SBA Information Notice

TO: All SBA Employees
SUBJECT: Issuance of SOP 50 10 5(H)

CONTROL NO.: 5000-1340
EFFECTIVE: May 4, 2015

The purpose of this notice is to inform SBA employees of the issuance of SOP 50 10 5 (H), Lender and Development Company Loan Programs. This version of the SOP will be effective and apply to all applications received by SBA on or after May 1, 2015. Below is a summary of the primary areas which have been updated in this version.

SUBPART A

1) Revised Language Regarding Lender Oversight Monitoring and Reviews

In Chapters 1 and 3, SBA revised the language discussing how SBA oversees 7(a) lenders and Certified Development Companies (CDCs). First, SBA incorporated changes in the risk-based review protocols for lenders and CDCs. Second, SBA removed the delineation between “on-site” and “off-site” reviews and related fees. With the advent of technology, generally less costly and less burdensome virtual reviews like Analytical and Targeted Reviews may cover much of what was previously performed in and within the scope of on-site reviews, diminishing the distinction between off-site and on-site reviews.

2) Incorporated Regulatory Changes Made to the 504 Program Regarding CDC Affiliation, Corporate Governance and Insurance Requirements

In Chapter 3, SBA has incorporated the regulatory changes regarding CDC Affiliation that became effective March 21, 2014. SBA has also incorporated the regulatory changes to corporate governance and insurance requirements for CDCs that became effective April 21, 2015. The revisions include changes to CDC membership, board requirements, executive committees, loan committees, CDC applications and delegated status requests, independent loan reviews, CDC affiliation and contracting, annual board certifications, reporting requirements, and Directors & Officers (D&O) and Errors & Omissions (E&O) insurance requirements. (Note: SBA will issue a detailed information notice with specific guidance on the D&O and E&O insurance requirements.)

SUBPART B

1) Clarified the Policies Regarding Debt Refinancing for 7(a) Loans

In Chapter 2, SBA has clarified the policies regarding debt refinancing for 7(a) loans. Formerly, the SOP stated that SBA guaranteed loan proceeds may not be used to refinance debt used to finance a loan purpose that would have been ineligible at the time it was originally made. SBA is clarifying this provision by adding language to explain that a lender may refinance debt

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originally used to finance a loan purpose that would have been ineligible at the time it was made, if the condition that would have made the loan ineligible no longer exists. For example, the applicant business originally incurred the debt to acquire a building that it leased entirely to another business (e.g., a passive investment). Now, the applicant business operates an eligible small business in the building and would like to refinance the debt used to acquire the building. The refinancing is eligible, provided the other conditions regarding debt refinancing and occupancy are met.

SBA is also streamlining the requirements that the lender must take in order to ensure that SBA guaranteed loan proceeds are only used to refinance debt that was used for eligible purposes. Specifically, debt reflected on the applicant's business balance sheet may be eligible for refinancing if it has been reported on the applicant's business tax returns (Schedule C for sole proprietorships), showing the interest expense associated with the debt, and:

- a) If the debt to be refinanced was the first extension of credit (not used in whole or part to refinance a prior debt), the lender must document that the proceeds from that debt were used to finance a business purpose that would have been SBA eligible; or
- b) If the debt to be refinanced was used in whole or in part to refinance a prior debt, then the debt must be reflected on the applicant business tax returns (Schedule C for sole proprietorships) for the prior two full tax cycles, showing the interest expense associated with the debt, and the borrower must certify in accordance with 13 CFR § 120.130 that the debt to be refinanced was used for the applicant business; or
- c) If the debt is in the form of an outstanding balance on a credit card issued to the small business, the lender may refinance the credit card debt after confirming that the credit card is in the name of the business and obtaining the applicant's certification that the credit card debt being refinanced was incurred exclusively for business purposes. If the business credit card was also used for personal reasons, the applicant must identify which purchases were for personal reasons, and that amount must be deducted from the credit card balance. Loan proceeds must not be used to refinance any personal expenses.

Additional minor clarifications were made to the provision regarding refinancing debt in the personal name of the applicant owners.

3) Modified Documentation Requirements for Export Express Loans

Also in Chapter 2, SBA has removed language regarding documenting only the first full disbursement on an Export Express loan for a general line of credit as it may cause confusion. For such loans, lenders must demonstrate that at least 70% of the line of credit was used for export purposes.

4) Updated Real Estate Appraisal Requirements for 7(a) Loans

In Chapter 4, SBA has updated the real property appraisal requirements to conform to changes recently made in the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP

previously had three written report options for real property and personal property appraisal assignments: Self-Contained Appraisal Report, Summary Appraisal Report, and Restricted Use Appraisal Report. USPAP now has only two written report options for real and personal property appraisal assignments: Appraisal Report and Restricted Appraisal Report. All 7(a) lenders will be required to obtain a current USPAP-compliant Appraisal Report, not a Restricted Appraisal Report, for all real property appraisals on loans over \$250,000 secured by commercial real estate. SBA has not accepted and will not accept Restricted Appraisal Reports.

5) Updated Business Appraisal Requirements for 7(a) Loans

Also in Chapter 4, SBA is updating the requirements for a business appraisal in the 7(a) loan program. First, SBA changed its terminology from “business valuation” to “business appraisal” to align with the terminology used in the lending industry. Second, SBA is adding a new accreditation to the list of qualified sources to perform a business appraisal: Accredited Business Certified Appraiser (ABCA) accredited through the International Society of Business Analysts. Third, SBA is updating the business appraisal requirements for change of ownership transactions involving a Special Purpose Property. If an applicant business operates from a Special Purpose Property (for example, car washes, hotels, gas stations with or without a convenience store, golf courses, medical facilities or bowling alleys), the going concern appraisal must be completed by a Certified General Real Property Appraiser with experience appraising the specific business/property type. Such appraisals must allocate separate values to the individual components of the transaction including land, building, equipment and intangible assets. Finally, the Certified General Appraiser must have completed no less than four going concern appraisals of equivalent special use property as the property being appraised, within the last 36 months, as identified in the qualifications portion of the Appraisal Report.

Also in Chapter 4, for loans used to finance new construction or substantial renovation of an existing building, SBA has added the general contractor, project architect, and construction management firm, (in addition to existing appraiser) as qualified providers of statements affirming that a building was built with only minor deviations (if any) from the plans and specifications.

6) Required Use of E-Tran for all 7(a) Loan Applications

In Chapters 4 and 6, SBA is revising the SOP to state that all 7(a) applications for guaranty will be accepted only via E-Tran. E-Tran capacity has been increased to accept larger files. Attachments to the application that are too large to be submitted through E-Tran may still be submitted through Send This File.

7) Modified Process for Delegated Lenders to obtain loan increase and decreases

In Chapters 4 & 7, SBA is simplifying the process by which delegated lenders obtain SBA consent to increases and decreases in loan amounts prior to final disbursement. Delegated lenders will now access E-Tran directly to obtain loan increases and decreases for loans submitted under their delegated authority.

SUBPART C

1) Clarified Language Regarding Borrowed Contributions for 504 Loans

In Chapter 1, SBA has clarified the specific circumstances under which the borrower must obtain SBA written approval to pay the loan for its equity contribution at a faster rate than the 504 loan.

2) Updated Real Estate Appraisal Requirements for 504 Loans

As discussed above with regard to 7(a) loans, SBA has updated the real property appraisal requirements in Chapter 3 to conform to changes recently made in USPAP. All CDCs will be required to obtain a current USPAP-compliant Appraisal Report, not a Restricted Appraisal Report, for all real property appraisals when the estimated value of the Project Property is greater than \$250,000 or, when the estimated value is \$250,000 or less, if such appraisal is necessary for appropriate evaluation of creditworthiness. SBA has not accepted and will not accept Restricted Appraisal Reports.

For loans used to finance new construction or substantial renovation of an existing building, SBA has added the general contractor, project architect, and construction management firm, (in addition to existing appraiser) as qualified providers of statements affirming that a building was built with only minor deviations (if any) from the plans and specifications upon which the original estimate of value was based.

APPENDICES

In Appendix 2 (Definitions) and Appendix 3 (Reliance Letter), SBA updated the most recent version of the Transaction Screen assessment report to ASTM E1528-14.

In addition to the foregoing, formatting, spelling, grammatical, and punctuation errors were corrected throughout the SOP. The revised SOP has been re-posted to SBA's website and can be found at: <http://www.sba.gov/for-lenders>.

Notice and Questions

SBA field offices must notify lenders and CDCs of this Notice. For more information regarding E-Tran registration, usage, and training or for any questions regarding this Notice, lenders and CDCs are encouraged to contact the lender relations specialist or other officials in their local SBA field office. A listing of local SBA field offices may be found at www.sba.gov/localresources.

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