



SBA Information Notice

TO: All SBA Employees, 7(a) Lenders, and Certified Development Companies

CONTROL NO.: 5000-20043

EFFECTIVE: August 28, 2020

SUBJECT: Issuance of SOP 50 10 6

The purpose of this Notice is to inform 7(a) Lenders, Certified Development Companies (CDCs), together known as “SBA Lenders,” and SBA employees of the issuance of Standard Operating Procedure (SOP) 50 10 6, Lender and Development Company Loan Programs, **effective October 1, 2020**. This update to the SOP provides additional guidance and incorporates revisions to conform to changes in SBA regulations and loan program requirements including, but not limited to:

- The Final Rule on Streamlining and Modernizing Certified Development Company Program (504 Loan Program) Corporate Governance Requirements dated December 4, 2019 (84 FR 66287);
- Policy changes published in SBA Policy Notice 5000-19007, dated March 26, 2019, including changes to 7(a) and 504 loan program appraisal requirements;
- Procedural changes published in SBA Procedural Notice 5000-19014, dated July 25, 2019, that expedite the FBI fingerprint review process for SBA Business Loan Programs;
- Guidance published in SBA Information Notice 5000-19005, dated March 12, 2019, on revised Internal Revenue Service (IRS) Form 4506-T, “Request for Transcript of Tax Return;”
- Guidance published in SBA Information Notice 5000-19016, dated September 10, 2019, on revised SBA Form 750, Loan Guaranty Agreement (Deferred Participation); and
- Reduction and streamlining of forms: Elimination of SBA Form 912, “Statement of Personal History,” formerly used in connection with, for 7(a), SBA Form 1919, “SBA 7(a) Borrower Information Form,” and for 504, SBA Form 1244, “Application for Section 504 Loans.” For the Export Working Capital Program (EWCP), the use of SBA Forms 1919/1920 for all EWCP loan applications due to ExIm Bank’s decision to convert the EIB-SBA Joint Form 84-1 to a form for use by ExIm Bank only. In addition, for the 504 loan program, retirement of SBA Forms 2234 (Parts A, B, and C), “Premier Certified Lenders Program (PCLP) Guarantee Request,” and SBA Form 2450, “504 Eligibility

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EXPIRES: 8-1-21

SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete

Must be accompanied by SBA Form 58

Checklist (non-PCLP),” and incorporating, as necessary, the information of both forms into SBA Form 1244.

Users are advised to fully read SOP 50 10 6 to ensure understanding of all changes.

The SOP 50 10 6 will become effective October 1, 2020 and will apply to all applications received by SBA on or after that date. Participants must continue to use SOP 50 10 5(K) for SBA 7(a) and 504 applications submitted through September 30, 2020.

The significant changes to the SOP include the following:

FORMAT UPDATE:

The format of the SOP has been reorganized to emphasize core 7(a) and 504 Loan Program Requirements and to consolidate guidance based on loan delivery methods and procedural requirements.

The SOP is divided into two parts:

Part 1 (formerly known as Subpart A): Contains SBA Lender participation and portfolio requirements including: criteria for becoming an SBA Lender; delegated authorities; a brief overview of how SBA conducts oversight of SBA Lenders; and processes for loan reporting, loan transfers, secondary market transactions, and securitization.

Part 2 (formerly known as Subparts B and C): Is divided into three sections.

Section A: Core Requirements for all 7(a) and 504 loans

Section B: 7(a) Loan program specific requirements

Section C: 504 Loan program specific requirements

NEW NAVIGATION FEATURES:

The SOP contains bookmarks, built-in style headings, and a navigation pane (accessible by typing “control f” and then selecting Headings) to easily locate and view information.

SIGNIFICANT PROCEDURAL UPDATES:

While we cannot include all changes to the document in this Notice, some particularly significant procedural updates include:

Part 1, Participating in the SBA 7(a) and 504 Loan Programs

- 1) SBA has made the following changes that impact only 7(a) Lenders:
 - a. Increased required Lender qualifications for initial consideration in the Preferred Lenders Program (PLP). The Lender must demonstrate that it has processed and disbursed at least 10 SBA loans within the past 24 months. Acquired loans do not count towards the threshold.
 - b. Updated guidance on completing SBA Form 750, “Loan Guaranty Agreement.”

- c. Incorporated the contents of the application for a state-chartered credit union to apply to participate as a 7(a) Lender.
 - d. Moved the guidance related to loan reporting, loan transfers, secondary market transactions, and securitizations to this Part of the SOP, rather than after the 7(a) Loan Program specific requirements.
- 2) SBA has made the following changes that impacts only 504 Certified Development Companies (CDCs):
- a. Updated guidance to reflect regulatory changes published in the December 4, 2019, Final Rule on Streamlining and Modernizing Certified Development Company Program (504 Loan Program) Corporate Governance Requirements (84 FR 66287).
 - b. Revised the guidance for fingerprint background checks in connection with submission of SBA Form 1081 to incorporate electronic processing.
- 3) SBA has made the following change that impacts both 7(a) Lenders and CDCs:
- Introduced a new defined term “Lead District Office” that will be used in both the 7(a) and 504 Loan Programs to provide SBA Lenders with more clarity as to which local SBA office they should contact for particular actions.
- a. For the 7(a) Loan program, the “Lead District Office” is the SBA district office or branch office serving the geographic area where the Lender’s principal office is located.
 - b. For the 504 Loan Program, the “Lead District Office” is the Lead SBA Office as defined in 13 CFR 120.802: “The SBA District Office designated by SBA as the primary liaison between SBA and a CDC and with responsibility for managing SBA’s relationship with that CDC.”

Part 2, SBA Business Loan Requirements: Section A – Core Requirements for all 7(a) and 504 Loans

For 7(a) and 504 loans, SBA has:

- 1) Included in one section all of the core requirements that apply to both the 7(a) and 504 loan programs including eligibility; uses of loan proceeds; ethics, fees, and use of Agents; guaranties; IRS Tax Transcripts and verification of financial information; insurance requirements; guidance on historic properties; and environmental policies and procedures.
- 2) Added a chapter with guidance for special transaction structures such as Eligible Passive Company/Operating Company, Employee Stock Ownership Plans, cooperatives, and 401(k) plans including Rollover as Business Start-ups (ROBS) plans.
- 3) Included additional guidance on the eligibility of businesses with activities related to hemp and/or cannabidiol (CBD).

- 4) Clarified that, when determining whether credit is available elsewhere, SBA Lenders may not cite the Applicant's inability to meet the SBA Lender's or Third Party Lender's conventional credit score policy as the sole reason that credit is not available elsewhere.
- 5) Updated the eligibility of businesses owned by non-U.S. citizens. These businesses may be eligible only if the business is at least 51 percent owned and controlled by U.S. citizens or those who have Lawful Permanent Residence status from U.S. Citizenship and Immigration Services.
- 6) Clarified the requirement that all SBA Lenders are responsible for consulting the System for Awards Management's (SAM) Excluded Parties List System for each loan to determine if any Agents involved with the application or the Applicant or its Associates have been suspended, debarred, revoked, or otherwise excluded by SBA or another Federal agency. Evidence of the SAM search is only required once for each of the following: SBA Lender's employees, including Lender Service Providers (LSP) and LSP employees; and 504 professional services contractors who are providing services to the CDC under an SBA-approved professional services contract in accordance with 13 CFR 120.824.
- 7) Clarified the guidance related to Prior Loss to the Government and Delinquent Federal Debt by separating the requirements into two paragraphs and revised both paragraphs for additional clarity. Specifically, clarified that the Prior Loss rule only applies to debt incurred by a business and not loans to individuals (e.g., student loan debt).
- 8) Provided additional guidance on the character determination process and FBI fingerprint background checks.
- 9) To reduce process time for historic property reviews, revised the guidance and process for complying with Section 106 of the National Historic Preservation Act for properties and sites that are listed or eligible to be listed on the National Register of Historic Places. The revised process includes the introduction of new SBA Form 2481, "Historic Property Borrower Certification," which allows the Borrower, Co-Borrower, and/or Operating Company, as applicable, to self-certify for projects involving property or site acquisition where the Borrower, Co-Borrower, and/or Operating Company has no intention of altering, renovating, rehabilitating, restoring, and/or demolishing any part of the property or site.
- 10) Increased from \$150,000 to \$250,000 the threshold loan amount to determine whether the Environmental Investigation must begin with an Environmental Questionnaire or a Records Search with Risk Assessment for loans where there is not a North American Industry Classification System (NAICS) code match to an environmentally sensitive industry.

Part 2, SBA Loan Requirements: Section B – 7(a) Loan Program Specific Requirements¹

For 7(a) loans, SBA has:

- 1) Defined the terms Standard 7(a) Loan and 7(a) Small Loan to include loans processed under either Preferred Lender Program authority or non-delegated authority.
- 2) Defined the term Basic 7(a) Loan to include Standard 7(a) Loans and 7(a) Small Loans.
- 3) Updated guidance for all 7(a) loans to remind Lenders that working capital loan proceeds may not be used to refinance existing debt or finance any ineligible purpose.
- 4) Updated guidance for all Standard 7(a) loans; 7(a) Small loans; and International Trade loans to clarify that when 50 percent or more of the loan proceeds will be used for working capital, the Lender must explain in its credit memorandum why this level of working capital is necessary and appropriate for the subject business.
- 5) Updated guidance for 7(a) Small loans: As of the effective date of this SOP, the minimum acceptable Small Business Scoring Service Score (SBSS) is increased to 155. Loans with an SBSS score lower than 155 must be fully underwritten and submitted under Standard 7(a) procedures.
- 6) Updated guidance for SBA Express loans:
 - a. At time of closing, if the appraised value is less than 90 percent of the estimated value, SBA Express Lenders are permitted to close the loan but must include a written justification as part of its file that may be reviewed by SBA at time of guaranty purchase or when SBA is reviewing the Lender. The justification must include a thorough analysis by the Lender of the reasons for the appraisal being low and an explanation as to what steps the Lender took to offset the risk to SBA from the low appraisal such as additional equity or additional collateral.
 - b. A business credit scoring model may only be used in addition to the Lender's appropriate, prudent, and generally accepted industry credit analysis and procedures.
- 7) Clarified guidance for loan terms for all 7(a) loans.
 - a. Generally, equipment, fixtures, or furniture loans should not exceed 10 years. However, the term may be up to 15 years if the IRS asset class useful life supports the term.
 - b. For loans to farm enterprises, clarified that:
 - i. Where land and structures (including poultry houses) for farming comprise 51 percent or more of the use of proceeds, the maximum maturity is 20 years.
 - ii. Where machinery and equipment comprise 51 percent or more of the use of proceeds, the maximum maturity is the useful life of the machinery and

¹ Because Paycheck Protection Program (PPP) loans authorized under § 7(a)(36) of the Small Business Act are 7(a) loans, this SOP applies to the making of PPP loans, to the extent that the SOP is not superseded by or in conflict with PPP-specific requirements.

equipment, not to exceed 15 years, plus an additional period reasonably necessary for installation, which may not exceed 12 months.

- 8) Incorporated guidance provided in SBA Policy Notice 5000-19007 that increased the loan size from \$250,000 to \$500,000 as the threshold that triggers the requirement of appraisals on collateral secured by commercial real property.
- 9) Added guidance on the phase-out of the London Inter-Bank Offered Rate (LIBOR) and the use of the LIBOR base rate as an option for the calculation of the maximum allowable variable interest rate.
- 10) Included a separate chapter for Export Express, EWCP, and International Trade loans.
 - a. Clarified the eligibility requirements for the limited circumstances when changes of ownership may be financed with Export Express and International Trade loans.
 - b. Clarified guidance that small businesses in the following NAICS Industry Subsector Codes cannot be financed using Export Express, EWCP, and International Trade loans, but may be financed using other SBA financial assistance:
 - i. NAICS Industry Subsector Code 721 (Accommodation); and
 - ii. NAICS Industry Subsector Code 447 (Gasoline Stations).

Part 2, SBA Loan Requirements: Section C – 504 Loan Program Specific Requirements

For 504 loans, SBA has:

- 1) Updated guidance to reflect regulatory changes published in the December 4, 2019, Final Rule on Streamlining and Modernizing Certified Development Company Program (504 Loan Program) Corporate Governance Requirements (84 FR 66287).
- 2) Incorporated guidance provided in SBA Policy Notice 5000-19007 that increased the estimated value of the Project Property from \$250,000 to \$500,000 as the threshold that triggers the requirement for appraisals on collateral secured by commercial real property.
- 3) Revised guidance for statements of no adverse changes. Each CDC must issue a written opinion, which is based upon financial statements current within 120 calendar days from the published Central Servicing Agent Cut-Off Date for the applicable Debenture Funding Date, that there has been no unremedied substantial adverse change in the Applicant's ability to repay the 504 loan since its submission of the loan application to SBA.
- 4) Added guidance:
 - a. In the credit standards section for the analysis and discussion that must be included in the CDC's credit memorandum for general 504 Projects as well as for 504 Projects involving debt refinancing with or without expansion;
 - b. Regarding the certification that the Third Party Lender must make in its commitment letter with respect to projects involving debt refinancing with or without expansion;
 - c. On life insurance for calculating amount of insurance and term required; and
 - d. On the processing methods and submission of application to SBA.

Appendices: SBA has added new appendices and revised the order accordingly:

- 1) New Appendix 1, Forms and Related SOPs, with form names and hyperlinks to form download pages when available.
- 2) New Appendix 2, Acronyms.
- 3) New Appendix 3, Definitions, with hyperlinks to regulatory citations when applicable.
- 4) New Appendix 11, Record Retention Requirements, for the 7(a) and 504 loan programs; Updated guidance for the 504 loan program to reduce record retention requirements for paid off and liquidated loans to 6 years.
- 5) New Appendix 12, SBA Email Addresses, for sending notices and requests for SBA action.

Questions:

SBA has established a new email account to provide support and answer questions on the new SOP: SOP50106@sba.gov.

Questions concerning this Notice may be directed to the Lender Relations Specialist in the local SBA Field Office. Local SBA Field Offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

Loan Program Questions may also be submitted to 7aQuestions@sba.gov or 504Questions@sba.gov.

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