

## KEY ADDITIONS, CLARIFICATIONS AND CHANGES

### Attachment to Information Notice

#### Subpart A: Lender and CDC Participation Requirements

1. SBA field offices (rather than Headquarters) will approve requests from credit unions to become a 7(a) lender.
2. An applicant's written request to become a 7(a) lender must now include a statement that the lender is in good standing with its primary regulator and must disclose any formal or informal enforcement actions or agreements within the past two years.
3. The requirement for a lender to wait one year to reapply for PLP/SBA Express/Pilot Loan Program status if the lender's request was declined has been removed. The lender may reapply when it has overcome the reason(s) for the decline.
4. PLP, SBA Express and Pilot Loan Programs: Previously some types of businesses were not eligible for processing under any delegated lender program. These included businesses where additional paperwork or licenses are necessary, e.g. medical facilities (including residential care facilities). SBA determined that these restrictions are no longer necessary and has removed them. Thus, all 7(a) programs now have the same applicant restrictions as to type of business.
5. SBA Express Participation Criteria: The criteria have been revised to include the Office of Credit Risk Management risk rating in the analysis and no longer exclude Community Express loans from currency rate and other calculations.
6. CDC Membership: The SOP defines a "quorum" for a vote by the membership as the presence (in person or by proxy) of at least 51 percent of the members entitled to vote.

#### Subpart B: 7(a) Business Loan Programs

1. Type of business:
  - Bail Bond Companies have always been ineligible, but were not specifically listed in the SOP. They have been added to the list of ineligible businesses.
  - Clarifies that mortgage servicing companies that disburse loans and sell them within 14 days of loan closing are eligible. Otherwise, SBA considers the business to be a lender and, therefore, not eligible for SBA's financial assistance.
  - Clarifies the eligibility of mini-warehouses, office suites, shopping centers, flea markets, and mobile home parks. They are eligible for SBA's financial assistance if they receive at least 50 percent of their revenue from services provided rather than rental (passive) income.
  - Clarifies that multilevel sales distribution plans are not eligible for SBA financial assistance.
  - Clarifies the eligibility of businesses owned by persons who answer "yes" to one of 3 questions (7, 8, or 9) on SBA Form 912:
    - a. If a Subject Individual answers "yes" to at least one of these three questions, then that individual must go through a background check and character determination unless the charge resulting in a "yes"

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Must be accompanied by SBA Form 58

answer was a single misdemeanor that was subsequently dropped without prosecution. (Documentation from the appropriate court or prosecutor's office must be submitted along with the SBA Form 912.) If the individual pleads guilty to the charges or to lesser charges, the background check and character determination must be conducted.

- b. A Prior Offense cleared by the Director, Office of Financial Assistance (D/FA) or designee on a previous application where no other offenses have occurred since the previous application was cleared by the D/FA or designee is valid only for six months from the date of issuance.
- For businesses owned by non-US Citizens:
    - a. Modifies lender requirements regarding the timing of verifying an alien's status by stating that "Prior to disbursement, Lenders must verify the USCIS status of each alien who is required to submit USCIS documents. The lender must document the findings in the loan file." Previously only SBA Express lenders could verify prior to disbursement rather than at time of application.
    - b. Includes language to remind all lenders of their responsibilities under Treasury regulations governing customer identification programs.
2. Use of Proceeds:
    - Clarifies that a loan where the use of proceeds includes site improvements (e.g. grading, streets, parking lots, landscaping) may include up to 5 percent of the loan amount for community improvements such as curbs and sidewalks.
    - Removes payment of an interim construction loan from an associate as an eligible use of proceeds because it is inconsistent with 13 CFR 120.130(a).
  3. Debt refinancing:
    - Clarifies that under SBA Express, a lender cannot refinance its own debt to the applicant if the lender's exposure to the applicant will be reduced.
    - Clarifies that when there is a change of ownership and the seller has an SBA loan, the new loan request cannot be processed PLP but instead must be processed through the Standard 7(a) Loan Processing Center.
  4. Loan Conditions
    - Demand Notes: Allow SBA Express and Export Express lenders to use a demand note if the lender meets certain stated conditions.
    - Interest Rates: Allow SBA Express and Export Express lenders to charge a default interest rate.
  5. Credit, Collateral and Environmental Policies
    - Expands the policy regarding the waiver of personal guaranties of 20 percent or more owners of the Small Business Applicant to include 401(k)s as long as the beneficiaries of the 401(k) guarantee the loan.
    - Clarifies the Agency's environmental policies and includes new appendices setting forth all applicable environmental definitions, a sample reliance letter, a list of environmentally sensitive industries, the policies regarding loans to gas stations, and SBA's Indemnification Agreement with necessary attachments.
  6. Authorization

- Increases the level at which certain requirements regarding SBA-guaranteed construction financing must be met from \$125,000 to \$350,000. This increase recognizes the construction cost inflation during the time since the previous SOP was drafted.

#### 7. Post-approval Modifications, Loan Closing & Disbursement

- Expanded the use of SBA Form 2237 to all lenders for post-approval requests or to inform SBA of post-approval changes. Previously this form was used only for PLP/SBA Express/LowDoc requests.
- Clarifies that while the disbursement period must be stated in the Authorization and tailored to the loan, the loan must be fully disbursed within 48 months of the approval date. SBA will automatically cancel any remaining undisbursed balance beyond that date.
- Provides an option to permit the lender and borrower to sign one Settlement Sheet (SBA Form 1050) at the time of initial disbursement rather than a separate SBA Form 1050 for each disbursement.
- Requires SBA Express and Pilot Loan Program Lenders to send a copy of the executed Authorization to SBA only as a part of a guaranty purchase request. PLP lenders must submit a copy of the executed Authorization to the appropriate Commercial Loan Servicing Center at time of closing.

### Subpart C: 504 Certified Development Company Loan Program

#### 1. General Program Overview

- Clarifies that a CDC may provide interim financing but only for a project where the 504 loan will be financed by another CDC.

#### 2. Eligibility:

- The changes identified for the 7(a) program are also included in the subpart for 504 loans with one exception: In the 504 program, verification of alien status must take place prior to submitting the loan application to SBA.
- For PCLP loans, the CDC is required to conduct the franchise review.

#### 3. Credit, Collateral and Environmental Policies

- The changes identified for the 7(a) program are also included in the subpart for 504 loans.

#### 4. Loan Conditions and Authorization Requirements

- Clarifies that the 504 loan must be disbursed within 48 months from the date of approval. There will be no extensions.

#### 5. Loan Closings

- The 504 streamlined closing procedures and revised forms have been incorporated into the SOP.