

**AUDIT OF
NEW JERSEY DISTRICT OFFICE 7(a) LOANS
NEWARK, NEW JERSEY
AUDIT REPORT NO. 8-8-F-003-019**

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U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20416

AUDIT REPORT
Issue Date: July 8, 1998
Number: 8-8-F-003-019

To: Francisco Marrero, District Director
New Jersey District Office

Richard Taylor, Director
Preferred Lenders Program (PLP) Loan Processing Center

From: 
Peter L. McClintock, Assistant Inspector General
for Auditing

Subject: Audit of New Jersey District Office 7(a) Loans

Attached is a copy of the subject report. The report contains two findings with five recommendations for the New Jersey District Office Director and one for the Preferred Loan Processing Center Director.

The recommendations in this report are subject to review and implementation of corrective action by your office in accordance with existing Agency procedures for audit follow-up. Please provide your management response to the recommendations within 30 days from the date of this report, using the attached SBA Forms 1824, Recommendation Action Sheet.

Any questions or discussions of the issues contained in the report should be directed to Victor Ruiz at (202) 205-7204.

Attachment

AUDIT OF 7 (a) LOAN PROCESSING

NEW JERSEY DISTRICT OFFICE

NEWARK, NJ

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SUMMARY

The audit was part of a nationwide review to determine whether 7(a) loans were processed, disbursed, and used in accordance with Small Business Administration (SBA) requirements. The New Jersey District Office was assigned 1,402 loans valued at \$416 million from March 1, 1996, to June 30, 1997. The loans, made to small business concerns within the state of New Jersey, were processed by the District Office and the Preferred Lender Program (PLP) Processing Center. We selected a random sample of 30 loans valued at \$9.4 million for review.

SBA has established procedures for lenders and SBA loan officers to follow to reduce risk associated with loan making and to assure that only eligible loans are guaranteed. Failure to follow these procedures increases the chance that ineligible or risky loans will be approved. We reviewed lenders' compliance with 22 such procedures. In the period audited, we determined that for 11 of the 30 loans, lenders did not follow at least one procedure.

For the 11 loans, the non-compliance consisted of the following:

- Cash injections were not verified prior to disbursement for four loans. Without the required cash injections, borrowers may have insufficient working capital and less commitment to the business. For one of the loans, the borrower did not inject \$13,000 as required by the loan agreement. The required injections for the other three loans were verified after disbursement.
- There was no evidence that business financial information was verified with the IRS prior to disbursement for four loans. Without verified business financial data, loan decisions could be based on financial data that is not credible. For two loans totaling \$715,000 with guarantees of \$536,250, lenders did not verify business financial information with the IRS for the three year period required by the loan agreement. The required verifications for two other loans were not fully completed until after disbursement.
- The use of loan proceeds was not verified for two loans totaling \$203,000 as required by the loan agreement or settlement sheets. Without verifying the use of loan proceeds borrowers could use loan proceeds for unauthorized purposes. Our subsequent review disclosed that the loan proceeds were used appropriately.
- A standby agreement was not obtained prior to disbursement for one loan. Standby agreements may be necessary to improve a company's equity position or to assure repayment of SBA's loan.
- An updated financial statement and credit report were not obtained although one loan was disbursed more than one year after the approval date. Current financial statements and credit reports are needed to ensure that no adverse changes have occurred in the borrower's financial and credit condition. By reviewing financial

statements and credit reports for another loan that was made to the borrower around the time of disbursement, we determined no adverse changes had occurred.

We also identified two loans with errors involving the lack of timely disbursement. The two loans with guarantees totaling \$455,000 were not disbursed by the time specified in the loan authorizations. As a result of our audit, both lenders canceled their requests for the guarantees.

As of March 31, 1998, 23 of the 30 sampled loans were current, 4 were canceled, 1 was in a deferred status, 1 was undisbursed, and 1 was paid off. Lender responses regarding the loans indicated the deficiencies were due to unintentional errors and loan officers' lack of knowledge of the SBA requirements. In addition, two loan officers could not explain why the deficiencies occurred.

We recommend that the New Jersey District Office Director take the following actions:

- Take appropriate steps to protect SBA's interests by ensuring that the lender verifies borrower or seller financial data with the IRS, obtaining guarantee releases, or obtaining indemnification agreements to reflect the lack of an IRS verification.
- Re-emphasize to lenders their responsibility to verify financial data with the IRS prior to disbursement, to retain a documented summary and IRS data in the loan file, and to obtain updated financial statements and credit reports when loan disbursement deadlines are extended.
- Re-emphasize to lenders in writing their responsibility to ensure that required cash injections are made and properly documented and required standby agreements are obtained.
- Re-emphasize to lenders in writing their responsibility to verify use of loan proceeds in the event joint payee checks are not used for non-working capital expenditures.
- Re-emphasize to lenders the need to request cancellation of guarantees when the disbursement deadline expires or to document any disbursement extension in the loan file.

We recommend that the Director, Preferred Lenders Program Loan Processing Center, take the following action:

- Take appropriate steps to protect SBA's interests by obtaining a verification of the cash injection from the lender, reducing the guarantee percentage, or obtaining an indemnification agreement to reflect the lack of a \$13,000 injection.

In response to a draft report, the New Jersey District Office Director and the Preferred Lenders Program Loan Processing Center Director agreed with the recommendations. We have evaluated and considered their comments in finalizing this report.

The findings in this report are the conclusions of the OIG's Auditing Division based on testing of the auditee's operations. The findings and recommendations are subject to review, management decision, and corrective action by your office in accordance with existing Agency procedures for follow-up and resolution.

INTRODUCTION

A. BACKGROUND

Audits of the SBA LowDoc Loan Program (a subsection of the 7(a) Loan Program) in 1996 and 1997 showed that lenders and SBA district offices were not always processing loans in compliance with existing policies and procedures. At the request of SBA's Office of Financial Assistance, we initiated an audit of the 7(a) Loan Program to determine if a similar level of non-compliance exists. Our evaluation will be presented in a summary report combining the results of eight individual audits. This report presents the audit results for one site.

Section 7(a) of the Small Business Act of 1958, as amended, authorizes SBA to provide financial assistance to small businesses. SBA provides this financial assistance primarily by guaranteeing loans made by participating lenders to small businesses. To obtain the SBA guarantee, a lender must have continuing ability to evaluate, close, service and liquidate loans in accordance with SBA requirements. A Loan Guaranty Agreement between SBA and the lender requires the lender to abide by SBA regulations and procedures and allows the lender to request SBA purchase of borrower defaulted loans.

Generally, SBA regulations and procedures require both the lender and SBA to review the borrower's eligibility, repayment ability, management qualifications, character, creditworthiness, and adequacy of collateral for loans submitted under regular procedures. The most active and expert lenders qualify for SBA's Certified Lender Program (CLP) and Preferred Lender Program (PLP), respectively. Under CLP procedures, SBA utilizes the credit presentation of the lender and makes a credit and eligibility determination. Under PLP procedures, the Sacramento PLP Loan Processing Center reviews the loan application solely for eligibility.

B. AUDIT OBJECTIVE AND SCOPE

The audit objective was to determine whether 7(a) loans (excluding special programs with modified requirements such as LowDoc and FA\$TRAK) were processed and proceeds disbursed and used in accordance with SBA requirements. The audit was based on a statistical sample of 30 loans valued at \$9.4 million out of a population of 1,402 loans for \$416 million made to small businesses in the state of New Jersey between March 1, 1996, and June 30, 1997.

The auditors determined compliance with 22 procedures established by SBA to reduce risks associated with loan making and to assure that only eligible loans are guaranteed. To make these determinations, the auditors reviewed lender and/or SBA file documentation for each loan in the sample; interviewed borrower, lender, and SBA district office personnel; and visited businesses to review records. Field work was performed from January through April 1998. The audit was conducted in accordance with Government Auditing Standards.

C. FOLLOW-UP ON PRIOR AUDITS

This was the first audit of the 7(a) Loan Program at the New Jersey District Office.

RESULTS OF AUDIT

FINDING 1 SBA 7(a) Guaranteed Loans were not Always Processed and Disbursed in Accordance with SBA Requirements

SBA has established procedures for lenders and SBA loan officers to follow in reducing risks associated with loan making and assuring that only eligible loans are approved. The chance that risky or ineligible loans will be approved is increased when these procedures are not followed. In our sample, at least one processing or disbursing deficiency was identified for 11 of 30 loans reviewed. Corrective action is necessary to preclude guarantee adjustments applicable to \$549,250 on three loans. The remaining eight loans did not require guarantee adjustments because corrective actions had been taken.

Cash Injections were not Verified Prior to Disbursement

For four loans, lenders did not ensure that cash injections were made prior to disbursement as required by the Authorization and Loan Agreement (loan agreement). Without the required cash injections, borrowers may have insufficient working capital and less commitment to the business. For one loan, the borrower did not inject a total of \$13,000 as required by the loan agreement. The required injections for the other three loans were verified after disbursement.

A loan for [redacted] (sample number 7), processed under PLP procedures, was approved in [redacted] to acquire commercial property and for working capital. The loan agreement required the lender to be in receipt of evidence that the business owners injected not less than \$70,000 in the business as equity capital. While the owners personally injected \$57,000, the remaining \$13,000 of the required \$70,000 was injected by the business. The lender's loan officer believed that an affidavit and letter from the borrower's attorney provided sufficient documentation that the business owners made the required injection. As of March 31, 1998, the loan was current.

Lenders did not verify cash injections were made prior to disbursement for three other loans (sample numbers 15, 23, and 29). We determined the required cash injections were made.

Lack of Evidence that Business Financial Information was Verified with the IRS Prior to Disbursement

On four loans, lenders did not have all the required evidence that business financial information was verified with the IRS prior to disbursement. Guarantees for two loans may need to be adjusted due to unresolved risk resulting from lenders possibly not performing IRS verifications of financial information provided by borrowers. SBA Policy Notice 9000-941 requires lenders to obtain IRS verification of financial information of the small business concern prior to loan disbursement. In cases where the verification reveals no exceptions, lenders are required to include a summary of their evaluation in the loan file, along with all the IRS data.

The required verifications for the other two loans were not fully completed until the loans were disbursed.

The first loan (sample number 19) for [redacted] with a guarantee of [redacted], processed under regular processing procedures, was approved in [redacted] for the purchase of land and a building. As the borrower's projected cash flow was based on the seller's historical financial data, verification of this data was necessary to minimize the risk for this loan. The lender's loan officer stated that the IRS verification of the seller's financial information was performed, but could not explain why the evidence was not in the loan file. The lender's loan officer attempted to verify the information during the audit, but was unsuccessful. As of March 31, 1998, the loan was current.

The second loan (sample number 28) for [redacted], with a guarantee of [redacted], processed under regular processing procedures, was approved in [redacted] for construction and renovation of existing improvements. The lender's loan officer stated that the IRS verification of the existing business was performed, but the documents were discarded because FDIC auditors informed them that the retention period for tax records was only three years. At the OIG auditor's request, the lender ordered IRS tax verifications for 1993 through 1995, but only the 1995 verification has been received. The loan was current as of March 31, 1998.

For two other loans, lenders did not fully verify three years of business financial information with the IRS until after the loans were disbursed. We determined that the required verifications were made after one loan was disbursed (sample number 26), and verification of one year's information was not made until after the other loan was disbursed (sample 25).

Use of Loan Proceeds not Verified

For two loans totaling \$203,000, lenders did not verify use of loan proceeds as required by the loan agreement (sample numbers 17 and 29). Verification of the use of loan proceeds is intended to prevent borrowers from using loan proceeds for unauthorized purposes. We determined that the loan proceeds were used appropriately.

Standby Agreement not Obtained Prior to Disbursement

One lender omitted a standby clause from the loan agreement (sample number 11). SOP 50 11, chapter XIX, states standby agreements should be obtained if such subordination is necessary to improve a company's equity position or to assure repayment of SBA's loan. Prior to loan approval, the lender determined a standby agreement was appropriate for the loan. A standby agreement was obtained after the loan was disbursed as a result of the audit.

Updated Financial Statement and Credit Report not Obtained after Disbursement Delay

A lender failed to obtain updated financial statements and credit reports although the loan was disbursed more than one year after the approval date (sample number 22). SOP 50 10 3, chapter 3, states that review of updated financial statements may be necessary to assure that no adverse change has occurred. The lender's standard practice for non-SBA guaranteed loans is to obtain updated credit reports and financial statements when disbursement is made one year after loan approval. By reviewing financial statements and credit reports for another loan that was made to the borrower around the time of disbursement, we determined no adverse changes had occurred.

Relationship of Loan Deficiencies to SBA Oversight

The majority of loans with deficiencies were originated when SBA had limited or no oversight of the lenders' loan processing and disbursing. For certain loan processing and disbursing actions, an SBA district office would normally be unaware of how and when the action was done because no documentation of the action was required to be submitted to SBA. These actions include, but are not limited to, cash injections, IRS verifications, and use of loan proceeds. District offices also were unaware of almost all actions for loans processed under PLP procedures.

All of the deficiencies identified were processing or disbursing actions not normally reviewed by or reported to SBA. As a result, the deficiencies generally would not be identified by SBA under existing procedures until after the loan defaulted and the lender requested the guarantee be honored.

Because lenders were responsible for all of the deficiencies identified, we asked why the deficiencies occurred. Lenders provided the following reasons:

Loan officer unintentional error	6 deficiencies
Loan officer lack of knowledge	4 deficiencies
Loan officer could not provide reason	2 deficiencies

This issue will be further considered in a summary report because actions to minimize SBA's risk must be implemented agency-wide.

Recommendations

We recommend that the New Jersey District Office Director, take the following actions:

- 1A. For sample numbers 19 and 28, take appropriate steps to protect SBA's interests by ensuring that the lender verifies borrower or seller financial data with the IRS, obtaining guarantee releases, or obtaining indemnification agreements to reflect the lack of an IRS verification.

- 1B. Re-emphasize to lenders in writing their responsibility to verify financial data with the IRS prior to disbursement, to retain a documented summary and IRS data in the loan file, and to obtain updated financial statements and credit reports when loan disbursement deadlines are extended.
- 1C. Re-emphasize to lenders in writing their responsibility to ensure that required cash injections are made and properly documented and required standby agreements are obtained.
- 1D. Re-emphasize to lenders in writing their responsibility to verify use of loan proceeds in the event joint payee checks are not used for non-working capital expenditures.

We recommend that the Director, Preferred Lenders Program Loan Processing Center, take the following action:

- 1E. For sample number 7, take appropriate steps to protect SBA's interests by obtaining a verification of the cash injection from the lender, reducing the guarantee percentage, or obtaining an indemnification agreement to reflect the lack of a \$13,000 injection.

New Jersey District Office Director's Response

The District Director agreed with the finding and recommendations. He agreed to take action to protect SBA's interests when lenders disburse loans without obtaining IRS verifications and to notify lenders of their obligation to comply with all terms of SBA's loan guaranty agreement. The District Office determined that an IRS verification has now been completed for sample number 28 and an indemnification agreement is warranted for sample number 19. The District Director also stated that three courses of action are planned to re-emphasize the points outlined in the audit report. Detailed letters will be mailed to lenders, lender training sessions will be held, and a summary of the final IG report will be published in the District Office Newsletter.

Evaluation of the New Jersey District Office Director's Response

Actions taken and planned by the New Jersey District Office Director are responsive to our recommendations.

PLP Loan Processing Center Director's Response

The PLP Loan Processing Center Director concurred with our recommendation to protect SBA's interests when there is a lack of evidence of a cash injection. The Director stated that he would agree to contact the lender for sample number 7 to ask for further evidence of the required cash injection. He would also advise the lender that if it cannot provide the documentation, any

loss caused by lack of injection would affect SBA's decision regarding its guarantee if the lender requests purchase at any time in the future.

Evaluation Of The PLP Loan Processing Center Director's Response

The PLP Loan Processing Center Director's planned action is responsive to our recommendation.

FINDING 2 Loans were not Always Disbursed within Required Time Limits

Two loans with guarantee approvals totaling \$455,000 were not disbursed within the time limits specified in the loan agreement. In both cases, the loan was processed by PLP lenders and, therefore, SBA was not aware of the violations. The PLP lenders failed to identify the expired disbursement deadlines; hence, no action was taken to cancel the guarantees or extend the disbursement date. As a result, guarantees could have been provided based on information that was outdated.

Each loan applicant provides financial and background data to indicate their credit-worthiness and repayment ability. Lenders supplement this information with credit reports and tax information from the IRS to further verify creditworthiness and repayment ability. Because this information is a basis for loan approval, it should be accurate and timely. Per SOP 50 10 3, personal financial information should be provided within 90 days of the application date. Also, an interim business financial statement for the current period should be prepared when the year-end business financial statement is not within 90 days of the application date.

Once the loan application is approved, the PLP lender executes an Authorization and Loan Agreement on behalf of SBA that contains the conditions and requirements for the loan. Among the conditions and requirements are time limits for the first and final disbursements of loan proceeds. These time limits cannot be exceeded without the prior approval of SBA.

Of the 30 loans reviewed, we identified 2 where the proceeds were not disbursed and the time periods for disbursement specified in the loan agreements had elapsed. Details follow.

A loan for \$ * (sample number 3), with an 80 percent guarantee, was approved [*] for leasehold improvements, equipment and machinery. The loan agreement required the first disbursement to be made not later than 3 months from the approval date and no disbursement to be made later than 6 months from the approval date, unless such time is extended based on prior written consent from SBA. As of February 6, 1998 (date of auditor's visit), no disbursement had been made. The lender subsequently requested cancellation of the SBA loan guarantee.

A loan for [*] (sample number 10), with a 75 percent guarantee, was approved [*], for acquisition of a business and related real estate. The loan agreement required the first disbursement to be made not later than 2 months from the approval date and no disbursement to be made later than 6 months from the approval date, unless such time is extended based on prior written consent from SBA. Over 21 months later, as of [*], no disbursement had been made. The lender requested cancellation of the SBA loan guarantee after our audit inquiry.

For sample numbers 3 and 10, the credit and financial information was at least 7 and 21 months old, respectively. Significant changes could have occurred to both the creditworthiness and repayment ability of the borrowers during these periods. In addition, guarantee authority that could have been applied to other loans remained obligated unnecessarily.

Recommendation

We recommend that the New Jersey District Office Director, take the following action:

- 2A. Re-emphasize to lenders the need to request cancellation of guarantees when the disbursement deadline expires or to document any disbursement extension in the loan file.

New Jersey District Office Director's Response

The District Director agreed with the finding and recommendation. He agreed to notify lenders of their obligation to comply with all terms of SBA's loan guaranty agreement by mailing detailed letters to lenders, holding training sessions with lenders, and summarizing the final OIG report in the District Office Newsletter.

Evaluation of the New Jersey District Office Director's Response

Actions planned by the New Jersey District Office Director are responsive to our recommendation.

**SCHEDULE OF LOANS REVIEWED
AND THEIR STATUS AS OF MARCH 31, 1998**

SAMPLE NUMBER	LOAN NUMBER	BORROWER	LOAN AMOUNT	LOAN STATUS	TYPE
1	F			7 current	PLP
2				current	PLP
3				canceled	PLP
4				current	PLP
5				canceled	CLP
6				current	PLP
7				current	PLP
8				undisbursed	PLP
9		*		current	PLP
10				canceled	PLP
11				current	PLP
12				current	PLP
13				current	CLP
14				current	PLP
15				current	PLP
16				current	PLP
17				current	REG
18				current	PLP
19				current	REG
20				canceled	PLP
21				paid off	PLP
22				current	CLP
23				current	PLP
24				deferred	PLP
25				current	PLP
26				current	PLP
27				current	PLP
28) current	REG
29) current	PLP
30	L			2 current	PLP




U.S. SMALL BUSINESS ADMINISTRATION
New Jersey District Office
Two Gateway Center, 4th Floor
Newark, N.J. 07102

Appendix B
(Page 1 of 4)

OFFICE OF THE DISTRICT DIRECTOR

DATE: July 1, 1998

TO: Peter L. McClintock
Assistant Inspector General for Auditing

FROM: Francisco A. Marrero
District Director 

SUBJECT: Audit of New Jersey District Office 7(a) Loans

I have reviewed your draft report dated June 1, 1998 on the subject and wish to provide the following comments.

This office agrees with your recommendation to take action to protect SBA's interest when a lender disburses a loan without obtaining IRS verification. Your audit indicated that two loans, sample numbers 19 & 28, will require corrective actions due to the lack of IRS verification of financial records. Our office has been in contact with both of the cited lenders and has determined that sample #28 *

is now in compliance as * has obtained the necessary IRS verifications. Given the current situation, no corrective action is contemplated. Sample #19 * remains in non-compliance as the lender has advised that they are still awaiting IRS verification. Despite several attempts, * has been unable to obtain a reply from the IRS. Our office will also contact the IRS on this matter. However, since verification requirements have not been met, we are moving to have an indemnification agreement in place to compensate for this serious omission.

We also concur with your recommendation to notify lenders of their obligation to comply with all terms of SBA's loan guaranty agreement. We will accomplish such in several ways. First, a detailed letter will be mailed to New Jersey District Office lenders under the District Director's signature which will re-emphasize and comment on all points outlined in your audit report. The letter will also contain a statement that failure to comply with the guaranty agreement can result in the loss or denial of SBA's guaranty. This letter will be a follow-up to a memo sent to lenders on 4/20/98 after we received your preliminary verbal notice of the audit findings (copy attached for your information). Our second and perhaps most important approach to this issue will be to cover these topics in all future lender training seminars and sessions. Lender training is an effort that we have focused on since 91% of all SBA loans in New Jersey are now being underwritten by the loan processing centers. These training sessions will serve as a continual reminder to our lenders on loan closing obligations. Our final action will be to publish a summary of the final IG report in our District Office Newsletter, which reaches over 1000 lending officers and resource partners.

We understand the importance of correcting the cited deficiencies and you can be assured that we will work with our lenders to improve upon this area. If you require any additional information, please contact William Boone, ADD/ED, at 973-645-2179.

attachment

SBA - Your Community Development Partner


* Ex. 4



U.S. SMALL BUSINESS ADMINISTRATION
New Jersey District Office
Two Gateway Center, 4th Floor
Newark, N.J. 07102

Appendix B
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OFFICE OF THE DISTRICT DIRECTOR

DATE: April 20, 1998
FROM: Francisco A. Marrero 
District Director
TO: All SBA Lenders
SUBJECT: Topics of Interest

The SBA's Office of the Inspector General recently audited a sample of thirty 7(a) loans made by SBA lenders in New Jersey and I want to advise you of the preliminary results of the review. Some of the serious deficiencies noted include:

- The failure to obtain IRS verification of tax returns before disbursement of the loan.
- Inadequate verification and documentation on the use of loan proceeds.
- Lack of documentation related to capital injections by principals.
- Release of a Standby Agreement without obtaining SBA concurrence.

While the sample audited was small in comparison to our overall loan portfolio and the majority of our lenders are in full compliance, I feel that the deficiencies uncovered can serve as a reminder for all lenders to exercise care in the closing and servicing of SBA loans. The failure to comply with SBA's Regulations and Loan Authorization conditions can jeopardize the SBA's guaranty of a loan. When the IG's report is completed, I will provide you with more details on this matter.

On another issue, a SBA Procedural Notice (attached hereto) established the 1998 fee structure for the annual review of lenders who participate in our Preferred Lenders Program. This information is being provided to all of our lending partners in keeping with my policy of advising you on loan program changes and updates.

If you have any questions related to either of these matters, please contact William C. Boone, Assistant District Director for Economic Development, at 973-645-2179.

attachment

SBA - Your Community Development Partner



U.S. Small Business Administration
Sacramento Loan Processing Center
660 J Street, Suite 233
Sacramento, CA 95814-2413
Phone (916) 498-6446 Fax (916) 498-6434

Appendix B
(Page 3 of 4)

DATE: June 9, 1998

FROM: Richard Taylor *Richard Taylor*
Center Director

RE: IG Audit of New Jersey District Office 7(a) Loans

TO: Peter L. McClintock
Assistant Inspector General for Auditing

The above draft audit report makes five recommendations to the Sacramento Loan Processing Center. While we agree with the emphasis to improve lender performance and correct loan deficiencies, we do not agree with all of the particular procedures recommended.

1. You stated that \$13,000 of a \$70,000 cash injection was evidenced by an affidavit and letter from the borrower's attorney, which your auditors apparently found to be unacceptable. You recommended that we obtain verification of the cash injection from the lender, reduce the guarantee percentage, or obtain an indemnification agreement to reflect the lack of injection.
 - We would agree to contact the lender and ask for further evidence of the injection. We would also advise the lender that if it cannot provide the documentation, any loss caused by lack of injection would affect SBA's decision regarding its guarantee if the lender requests purchase at any time in the future.
 - The above procedure may prompt the lender to request a reduction of the guaranteed percentage. SOP 50 50 4 at page 10-7 states that a lender may request and SBA may approve a reduction in SBA's share of the loan. However, there is no procedure allowing SBA to unilaterally reduce the guarantee percentage of a current loan for which there is no pending purchase request and therefore we could not do so.
 - We also do not agree with the recommendation to obtain an indemnification agreement. The cost to the Agency of preparing, negotiating, and obtaining such an agreement would be tremendous compared to the minimal risk of loss from a fraction of the borrower's injection being poorly documented for a current loan. Further, we do not believe it would substantially enhance the Agency's position, since we retain the ability to deny liability on the guarantee if a purchase is requested and the lender remains liable for closing deficiencies pursuant to its Guaranty Agreement with SBA.

2. through 5. You recommended that we re-emphasize to lenders in writing several of their closing responsibilities. While it appears that the lenders do need to be reminded of those responsibilities, we believe it would be inappropriate for the Center to do so. SBA field offices are responsible for training their lenders and determining when they have the ability to participate in PLP. SOP 50-10(4), Chapter 3, specifies that a lender may only become a PLP lender upon nomination by an SBA field office, which must certify that the lender has the ability

to process, close, service and liquidate SBA loans. The Sacramento Loan Processing Center keeps PLP lenders advised of our procedures for submitting a request for a PLP number, but we rely on the field offices for keeping the lenders trained on general SBA procedures and local closing requirements. When PLP lenders are considered for renewal, it is the field offices that are asked to comment on whether the lenders are meeting SBA's requirements. Therefore, we believe it would be more appropriate for the New Jersey District Office to advise its lenders of the closing requirements you outlined.

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