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**Proposed Modifications to Approved State Programs that Require**

**Amendments to Allocation Agreement**

**Procedures for Requesting Approvals of Modifications**

**Effective June 27, 2011**

**Purpose:** This document provides guidance for requesting an approval of a proposed modification to an Approved State Program or implementing State agency (“modification”) under the SSBCI Program. Prior approval from Treasury, in the form of a written amendment to the Allocation Agreement, is required for any one or more of the following modification events:

- 1) The elimination or termination of an Approved State Program;
- 2) The addition of one or more new State programs;
- 3) A material change in the scope or purpose of an Approved State Program. Treasury maintains the discretion to determine materiality of any changes in scope or purposes that are proposed by a Participating State<sup>1</sup>;
- 4) The reapportionment and transfer of a Participating State’s allocated funds among Approved State Programs, when the cumulative amounts transferred exceeds 10 percent of the Participating State’s total allocation;
- 5) A change in the identity of the State agency or contracting entity proposed to implement the Approved State Programs from the State agency that is identified in Section 5.1 or Annex 1 of the Allocation Agreement or a merger of State agencies or contracting entities is proposed that substantially alters the organizational structure of the implementing Participating State agency or contracting entity; or
- 6) Extenuating circumstances requiring extensions to the reporting schedule established in Annex 5 of the Allocation Agreement.

In addition, Treasury, on its own, may initiate a written amendment to the Allocation Agreement for either of the following events:

- 1) The occurrence of any material event as described in Section 4.10 of the Allocation Agreement;  
or
- 2) A reduction in the total amount allocated to the Participating State;

Participating States may request approval of the proposed modification pursuant to the procedures below. A modification is not considered approved until both the Participating State’s authorized representative and the designated Treasury official have fully executed a letter amendment to the Allocation Agreement (which will be prepared by Treasury), and Treasury has inserted an effective date.

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<sup>1</sup> In this document, the capitalized term Participating State refers to states of the United States, plus the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any eligible municipalities, that have been allocated SSBCI funds.



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**Procedures for States to Initiate a Modification Approval Request Package**

*General Requirements—For All Modification Approval Requests*

In order for Treasury to process a modification approval request, the Participating State must email both of the following to [SSBCIAgreements@treasury.gov](mailto:SSBCIAgreements@treasury.gov):

- 1) A letter, signed by the Participating State's Authorized Representative<sup>2</sup>, specifying: the name of the Participating State; a description of the modification for which approval is requested; an identification of the section(s) of the Allocation Agreement that the Participating State proposes to amend; the proposed revision to this section, as appropriate; and a justification for the request.
- 2) Any documentation to support the justification, including an explanatory narrative of the requested modification. This justification should clearly explain the need for the proposed change to the Allocation Agreement, as well as the impact of this change on program performance, including the 10 to 1 private leverage expectation. Also, if the modification approval request is in response to an event that has already occurred, the Participating State should include explanation of why advance notice requesting approval was not received prior to the precipitating event, including any factors that may have been outside of the Participating State's control or other mitigating factors.

Treasury may request any additional information or documentation that it deems necessary and approval of the modification request is solely at Treasury's discretion.

*Additional Requirements for Requests for Approval of New State Programs*

In addition to complying with the requirements listed above, the Participating State must also submit the following when seeking approval for a new State program:

- 1) A completed State Small Business Credit Initiative Application form;
- 2) The application signature page, signed by the Participating State's Authorized Representative; and
- 3) Form SF-424B *Assurances – Non-construction programs*.

The application must include responses to:

- Section 1A;
- Section 1B (although a designation letter need not be attached if the organization listed is the same as the one listed in section 5.1 of the Allocation Agreement);
- Section 1C;

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<sup>2</sup> In this document, the capitalized term Authorized Representative refers not only to the individual designated in the application as the Authorized Representative, but also to any successor with the same title.



- Section 1D, if any contracting entities will administer the new program proposed (if contracting entities are being used to administer existing Approved State Programs but will not be used to administer the proposed new program, the Participating State may leave this section blank);
- Section 1E;
- Section 2A (this amount should match the amount listed in the Participating State's Allocation Agreement);
- Section 2B;
- Section 2C (showing the proposed apportionment of allocated funds to the existing programs, as well as the proposed new program);
- Section 3, if and only if the new proposed program is a CAP; and
- Section 4, if and only if the new proposed program is an OCSP.

If required, Sections 3 and 4 of the application should only reflect the proposed new programs.

Participating States need not provide information about their existing Approved State Programs in these sections.

Unless otherwise indicated, Treasury will assume that the narrative responses that the Participating State provided to questions 2D and 5B in its previously approved application are still indicative of the Participating State's plans to provide access to capital to underserved businesses and communities, and of the Participating State's plans to ensure appropriate reporting mechanisms, audits, and other compliance activities. For this reason, Treasury will not require Participating States that request approval for a new State program to submit responses to these questions. However, if there has been a material change to the Participating State's plans in these areas, the Participating State should submit updated responses to these questions.

#### *Additional Requirements for Requests Involving a Proposed Change in the Implementing Agency*

In addition to complying with the requirements listed in the *General Requirements* above, the Participating State must also submit the following:

- 1) A signed letter of designation from the chief executive of the Participating State indicating that the implementing department, agency, or political subdivision listed in the previously approved Allocation Agreement will no longer to implement the Approved State Program(s) and that a different specified entity will be designated to implement the Approved State Program(s), and administer the funds allocated to the Participating State.
- 2) A narrative describing the necessary legal actions that have been or need to be taken. The narrative should confirm that (1) the entity is legally capable to bind the State, territory or municipality to obligations with the Federal Government; and (2) the legal mechanisms are in place for the State, territory, or municipality to accept the transfer of SSBCI funds and deliver funds to the proposed entity.
- 3) Form SF-424B *Assurances – Non-construction programs*, signed by the new designated implementing agency.



- 4) Upon approval by Treasury, the Participating State will be required to provide an amended and revised Annex 6 of the Allocation Agreement (Opinion of Counsel) which covers the new designated implementing agency.

#### **Treasury Processing of Modification Approval Requests**

Upon receipt of a complete modification approval request package, Treasury will evaluate the request and seek additional information or documentation if necessary. If the modification request involves a request for approval of a new State program, Treasury will submit the accompanying SSBCI Application for review by a designated review committee. This review will include a program eligibility review, an assessment of the qualitative evaluation criteria, and final approval of the designated Treasury official. Treasury will then either approve or deny the request, in writing.

Requests for modification approvals initiated by the Participating State that will result in any reapportionment of funds must be received no less than 30 days prior to the triggering event. Requests for modifications that will not result in a reapportionment of funds should be submitted as soon as practicable, and in all cases, before the triggering event occurs, unless extenuating circumstances exist that are documented by the Participating State.

If Treasury determines that approval of the modification request is appropriate, or if Treasury itself initiates an amendment, Treasury will send the Participating State a letter amendment to the Allocation Agreement, which the Participating State's Authorized Representative must execute and return to Treasury within 10 calendar days of receipt. Upon receipt of the executed documents, Treasury will enter an "effective date" for the letter amendment and return a copy to the Participating State for its files. Treasury approval of the modification request is not considered to be in effect until the letter amendment to the Allocation Agreement has been fully signed by both the Participating State and Treasury and an "effective date" has been entered by Treasury.