



SBA Information Notice

TO: All SBA Employees

CONTROL NO.: 5000-1121

SUBJECT: Issuance of SOP 50 10 5(B) – Lender
and Development Company Loan
Programs

EFFECTIVE: 9-3-2009

The Office of Financial Assistance is announcing the publication of an update to the Standard Operating Procedure (SOP) 50 10 5. This update to the SOP will be known as SOP 50 10 5(B) and will be effective on October 1, 2009. This version of the SOP will apply to all applications received by SBA on or after October 1, 2009.

As with previous editions of SOP 50 10 5, SBA will post two versions on the web site. The first version will show all changes as “tracked changes” to enable users to more easily identify what has been modified. (As a note, the Table of Contents and all of the hyperlinks have been updated but, for ease of viewing, those changes are not shown.) The second version incorporates all of the changes into the document. The revised SOP may be found at <http://www.sba.gov/aboutsba/sbaprograms/elending/reg/index.html>.

The following is a summary of the key changes made to this version of the SOP:

1. SBA changed the guidance for financing transactions involving intangible assets:
 - a. If a transaction includes \$500,000 or less of intangible assets (including, but not limited to, goodwill, client/customer lists, patents, copyrights, trademarks and agreements not to compete), a lender may process the loan using its delegated authority.
 - b. If the application includes more than \$500,000 of intangible assets and the borrower and/or seller have contributed a total of at least 25% equity, the loan also may be processed using a Lender’s delegated authority. (Seller equity is defined as seller take-back financing that is on full standby (principal and interest) for a minimum of 2 years.)
 - c. If the loan amount includes more than \$500,000 in intangible assets and the borrower and/or seller are not providing at least 25% equity, then the application must be sent to the Standard 7(a) Loan Guaranty Processing Center in Citrus Heights for review and approval by SBA.
 - d. The amount of intangible assets financed with loan proceeds must be specifically identified in the Use of Proceeds section of the application and the loan authorization.
2. The 504 refinancing authority in the American Recovery and Reinvestment Act was incorporated.
3. Confirms the guidance on establishing the maximum fixed interest rate more closely to the regulation which states that SBA will periodically publish the maximum allowable

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fixed rate in the Federal Register. The maximum allowable rate will be based on the LIBOR swap rate, which will permit borrowers to get a fixed rate loan that is based on the cost of a swap contract for a LIBOR-based variable rate loan.

4. Revised the guidance on post construction certifications to require the appraiser to state that the building was built according to plans and specifications with only minor modifications (if any). An additional change was made to the appraisal guidance for 504 loans to address the situation where the property has declined in value and additional collateral or additional investment is not available. If the applicant demonstrates strong, consistent cash flow sufficient to support the debt, the Sacramento Loan Processing Center can approve the appraisal and the CDC may close the loan.
5. Clarified the required submission of a State-Chartered Credit Union when it is applying to participate in the Section 7(a) program.
6. Streamlined the required submission for CLP and PLP applications.
7. Added a clarification that a Technical Assistance provider agreement used by a Community Express Lender must specifically identify all fees to be charged by the Technical Assistance provider and clarified that a Lender may not pay referral fees to the T/A provider in addition to fees for services provided.
8. Clarified that any credit card debt that is going to be refinanced must be business related credit card debt and provided guidance on how to document that such credit card debt is business related.
9. Conformed the 20% improvement in cash flow requirement on refinanced debt in the 7(a) program to 10% to match the recently implemented requirement in the 504 program, and clarified that the improvement in cash flow requirement does not apply to certain types of debt allowed to be refinanced (such as long term debt structured with a balloon payment).
10. Revised the language concerning increases for Standard 7(a), CLP and PLP loans so that the Commercial Loan Servicing Centers can approve requests that are for more than 20% of the loan amount or more than 18 months after loan approval. Previously such requests were approved in headquarters. Also clarified the language surrounding increases in SBA Express and the Pilot Loan Programs.
11. Clarified that lenders are to follow their existing policy on conventional loans for site visits on their SBA-guaranteed loans.
12. Conformed to the regulatory requirement that lenders review the character of the operating company as well as the individual owners and clarified that the credit write-up is to include a discussion of any Federal, State, or local citations or probations that would affect the ability of the business to continue operations.
13. Provided guidance on documenting the lender's inability to perfect a lien on marketable securities.
14. Included a description of a new, expedited service for income verification offered by the IRS (from Notice 5000-1087).
15. Revised the guidance to provide that the CDC determines whether a change of ownership results in a "New Business," which requires an additional 5% borrower's contribution.

16. Clarified that a Section 504 Third Party Lender may close and begin amortizing its loan as long as the 504 project is completed and the business is in operation at the Project location even though the debenture has not yet funded.
17. Clarified that the CDC's finding of no adverse change must be made no more than 14 calendar days prior to submission to the Sacramento Loan Processing Center (SLPC).
18. Enhanced the requirements for documenting the fact that a borrower cannot obtain credit elsewhere.
19. All policy and procedural notices issued between January 1, 2009 and June 30, 2009 were incorporated into the SOP.

SOP Update Process

The Agency has determined that updating the SOP every six months is no longer necessary. Thus, the next update of SOP 50 10 5 will be published in 12 months.

Additional Information

Lenders, CDCs and other interested parties may continue to send suggestions concerning the SOP to SBA at SOP50-10Modernization@sba.gov. This e-mail box is set up to receive only.

Questions regarding SOP 50 10 5(B) should be directed to the lender relations specialist in the local SBA field office.

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