

# U.S. Small Business Administration Office of Capital Access

7(a) and 504 Update SOP 50 10 5 (K)

# OFA Program News

- Appraisal Procedural Notice – Published 3/26/19
- Express Rule comments closed on 12/18/2018; Comments are being reviewed and considered
- 504 Corporate Governance Proposed Rule
- SOP 50 10 5 K: Issued 2/15/19 – Effective 4/1/2019
- SOP 50 10 6 realignment project initiated

# SOP 50 10 5 (K)

- SOP 50 10 5(K): Applications received by SBA on or after April 1, 2019  
[www.sba.gov/document](http://www.sba.gov/document) – scroll to bottom (future document)
- No significant forms changes prior to April 1, 2019  
(New 504 escrow option to be announced when available)
- Authorization updates in progress
- E-Tran updates to be in place by April 1, 2019

# SOP 50 10 5 (K)

Subpart C – previously announced now incorporated into SOP

- 25 year debenture
- Permissible debt refinance without expansion
- Updated Job Opportunity requirements
- Review of historic properties

# SOP 50 10 5 (K)

## Subpart C

- Escrow closing guidance (not available until Forms area available)
- Use of Proceeds documentation requirements prior to closing
- Insurance requirements for Authorization
- Change of ownership approval and documentation
- PCLP authority update and restrictions on approving change of ownership
- No Adverse Change dated within 120 calendar days of closing
- 504 Complete File Review by OGC
- Updated Energy Public Policy guidance
- Incorporated language on revised Form 159

# SOP 50 10 5 (K) - Subpart A

- Removed SBA's List of Agents subject to Enforcement Action
- Updated guidance for Statement of No Objection processing
- Lender Monitoring System added new peer group (\$350MM & higher)
- Updated Delegated Authority restrictions:
  - Loans to Cooperatives
  - Emphasized that once a loan is submitted to LGPC, cannot be processed delegated (exception for 7(a) Small Loans that do not meet minimum score)

# SOP 50 10 5 (K) – Subpart A

- Clarified term for Export Express Lending Authority is 2 years
- Revised CDC Professional Services Contract Requirements:
  - Contracts for Management Services only with State and Local EDOs
  - CDC cannot contract for independent loan reviews with another CDC
  - Revised process for SBA review and approval of CDC contracts
  - Clarified CDC contracts may not have conflicts of interest or self dealing
- CDC independent Loan Reviews now every 2 years

# SOP 50 10 5 (K) Subpart A

- Professional Services Contract requirements revised (continued):
  - Must not evidence any actual or apparent conflict of interest or self-dealing
  - Must include SBA Form 1081 and Form FD-258 (fingerprint card) or electronic fingerprint submission for each individual providing services
    - Signed and dated within 90 days of submission to SBA
    - Attorneys providing legal services for loan liquidation or litigation are not required to submit 1081/fingerprints



# SOP 50 10 5 (K) Subpart A

- CDC Loan Files:
  - SBA character determinations must be retained in the CDC loan file for the life of the loan
  - Within 30 days after the debenture sale date:
    - CDC must forward to SBA all original loan documents in accordance with SBA Form 2286 “504 Debenture Closing Checklist”
    - Trustee retains original Debenture

# SOP 50 10 5 (K) Subpart A

- CDC Loan Files:
  - CDC must retain the original:
    - SBA application (Forms 1244, 2234 Parts A, B & C, 2450, any 912s)
    - SBA Forms 159
    - CDCs must retain the original SBA Form 1081 for Loan Committee Members in the CDC's files (may be separate from a loan's file)
- CDCs may retain scanned copies when original hard copy records are not required

# SOP 50 10 5 (K) – Subpart B

- Purchase of land only permitted as part of an eligible project
- Clarified franchise review process for multiple, or management agreements
- Clarified “credit elsewhere” test must address credit available from any government source or the lender
- Increased liquidity threshold for credit elsewhere from owners of 10% to 20%
- Residential facilities not providing healthcare and or medical services are not eligible – (licensed nursing homes and residential care facilities are eligible)
- Revised guidance for marijuana, marijuana related and hemp related business eligibility

# SOP 50 10 5 (K) – Subpart B

- Revised Religious Eligibility Worksheet and submission process
- Revised form 912 package submission process for character determination
- Revised clearance for businesses with sexual prurient aspect
- Clarified use of proceeds for farm enterprises
- Increase waiting period from 6 to 12 months for change of ownership when:
  - Using delegated authority, and
  - When debt not owned to seller

# SOP 50 10 5 (K) – Subpart B

- Clarified non-delegated applications for refinancing debt must include all supporting docs (Note to be refinanced, etc.)
- Clarified guidance on leasing project property to illegal businesses
- Updated guidance for change of ownership involving a new owner for ESOPs and Coops
- Incorporated legislation permitting loans to cooperatives to acquire a controlling interest in the employer small business
- Revised guidance for checking DOT Sanctions lists for Export Express

# SOP 50 10 5 (K) – Subpart B

- Maturity for LHI may not exceed 10 year plus up to 12 months for construction period
- Incorporated updated maximum allowable fixed rate
- Updated SBA Express and Export Express interest rates
- Update fee disclosure requirements from revised SBA Form 159
- Removed requirement for reviewing SBA's list of Agents that have been subject to enforcement action
- Lenders credit memo must address credit elsewhere

## SOP 50 10 5 (K) – Subpart B

- Revised minimum equity requirements for COO in partner buyouts
- Assignment of Contract proceeds for EWCP loans may be required
- Removed “AVA” as an accredited source for business valuations
- Added guidance when a Phase II may be done without an Phase I
- Added guidance for specific environmental assessments for:
  - Child occupied facilities (6 and younger or constructed after 1978),
  - Dry Cleaners, and
  - Gas Stations

# SOP 50 10 5 (K) – Subpart B

- Expanded blanket waiver for performance bond to include materials payment bonds
- Clarified all lenders are to reconcile financial information through 4506-T transcript verification prior to disbursement
- Clarified SBA Lenders must disclose 100% ownership of Applicant in the SBA Form 1919 and in E-Tran
- SBA approval for changes of ownership post loan approval for 12 months after disbursement



# SOP 50 10 5 (K) – Subpart B

- Revised guidance that delegated lenders must obtain approval from LGPC for any adjustments to ownership of the Borrower to verify:
  - Borrower complies with loan & guaranty limits to one Borrower & Affiliates
  - There has been no prior loss caused by any new owners
- Added specific guidance for EWCP loan post approval modifications
- Clarified may structure EWCP ABLs as a Master Note with sub-limits
- Updated guidance for documenting equity injection

# SOP 50 10 5 (K) – Subpart B

- Added requirement for Borrower certification regarding leasing to businesses involved in illegal activity
- Updated guidance for EWCP loans involving foreign A/R
- Updated guidance for EWCP loans requiring a BBC at least monthly
- Removed semi-annual monitoring requirements for W/C Caplines
- Added note Lenders may not unilaterally approved any adjustment of change in ownership for 12 months after final disbursement.



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Administration