



SBA Procedural Notice

TO: All SBA Employees and Certified Development Companies

CONTROL NO.: 5000-857295

SUBJECT: 504 Refinancing Revisions to SOP 50 10 7.1 that Incorporate Changes made by 504 Debt Refinancing Direct Final Rule

EFFECTIVE: October 1, 2024

The purpose of this Notice is to revise the provisions of the SOP 50 10 7.1 relating to the debt refinancing options available in the 504 Loan Program to incorporate the changes made by the 504 Debt Refinancing Direct Final Rule ([89 FR 79734](#)) published October 1, 2024. The effective date of the rule will be November 15, 2024. The changes made by the Direct Final Rule include: (1) removing the 50% cap on debt refinance without expansion to conform with current legislation; (2) raising the loan to value requirement on debt refinancing without expansion projects that include other business expenses to 90% and eliminating the cap on Eligible Business Expenses; (3) aligning the “substantially all” standard for 504 debt refinancing with expansion so it is consistent with the debt refinancing without expansion standard of 75%; (4) revising the 10% substantial benefit test on 504 debt refinancing with expansion and 504 debt refinancing without expansion on refinancing other government debt; and (5) allowing certain “other secured debt” to be included as an Eligible Business Expense.

The revisions to SOP 50 10 7.1 are described below. Where revisions are not included, the guidance remains as previously published in SOP 50 10 7.1.

A. SOP 50 10 7.1, Section C, Chapter 1, paragraph C.10 is revised to read as follows:

- a. Subparagraph C(10)(a)(i)(e)(iii) is deleted in its entirety and replaced with the following:

“iii) The refinancing of a Federally-guaranteed loan provided a substantial benefit to the borrower after Eligible Business Expenses, prepayment penalties, financing fees, and other financing costs are accounted for. “Substantial benefit” will mean that the portion of the new installment amount attributable to the debt being refinanced must be less than the existing installment amount(s). In calculating the percentage reduction in the new installment payment, prepayment penalties, financing fees, and other financing costs, must be added to the amount being refinanced, but not Eligible Business Expenses. The CDC may request the D/FA or

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SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete

Must be accompanied by SBA Form 58

designee to approve an exception to the reduction requirement for good cause. PCLP CDCs may not use their delegated authority to approve a loan requiring this exception.”

b. Subparagraph C(10)(iii) is deleted in its entirety and replaced with the following:

“iii. “Refinancing Project” means the fair market value of the Eligible Fixed Asset(s) securing the Qualified Debt and any other fixed assets acceptable to SBA (Additional fixed assets may be added only when needed to comply with the 90% Loan-to-Value Limitation described in C.10.i below). A refinancing project may include funds for Eligible Business Expenses.”

c. Subparagraph C(10)(a)(iv) is deleted in its entirety and replaced with the following:

“iv. “Eligible Business Expenses (EBE)” are payments of the business for either Operating Expenses or Other Secured Debt that:

- a) Are limited to the “Operating Expenses” which are expenses of the business that were incurred but not paid prior to the date of the 504 application or that will become due for payment within 18 months after the date of application. Examples include salaries, rent, utilities, inventory, and other expenses of the business that are not capital expenditures.
- b) Business Lines of credit and business credit cards may be included, if:
 - Loan proceeds are not used to cover any personal expenses;
 - If the line of credit and/or credit card was used for personal expenses, the Applicant must identify which purchases were for personal expenses and deduct that amount from the amount to be refinanced as an EBE;
 - The line of credit and/or credit card are in the name of the small business; and
 - The Applicant and the CDC certify in the loan application that the debt being refinanced was incurred exclusively for EBE.”
- c) “Other Secured Debt” is debt incurred prior to the 504 loan application that has been secured by the same Eligible Fixed Assets securing the Qualified Debt and incurred for the benefit of the Borrower and/or Operating Company. Other Secured Debt does not include debt incurred for the purposes of capital expenditures, and any existing liens must be released or subordinated to the amount of the debt being refinanced by the 504 loan.

This is debt must be secured for at least 6 months prior to the date of application by the same Eligible Fixed Asset(s) securing the Qualified Debt; and

The Borrower has been current on all payments due for not less than 6 months preceding the date of application. “Current on all payments due” means that no payment was more than 30 days past due from either the original payment terms or modified payment terms (including deferments) if such modification was agreed to in writing by the Borrower and the lender of the existing debt note less than one year prior to the date of application.

- d) If the Borrower is requesting that the refinancing include EBE, the application must include a specific description and an itemization of the amount of each expense.
- e) The CDC must retain in its file the following EBE documentation:
 - EBE must be itemized (a gross figure is not acceptable).
 - The CDC's credit memorandum must:
 - Document the nature of the EBE;
 - Provide the itemization of EBE; and
 - Include the CDC's certification that the EBE are eligible as defined in this paragraph."

B. SOP 50 10 7.1, Section C, Chapter 1, paragraph C.11 is revised to read as follows:

- a. Subparagraph C(11)(b)(i) is deleted in its entirety and replaced with the following:
 - "i. Either:
 - a) Substantially all (75% or more) of the proceeds of the existing debt was used to acquire a fixed asset(s) that was eligible for financing under the 504 loan program and the remaining amount (25% or less) was incurred for the benefit of the small business seeking refinancing; or
 - If the fixed asset(s) was originally financed through a commercial loan (hereafter the "original loan") that was subsequently refinanced one or more times:
 - Substantially all (75% or more) of the proceeds of the original loan was used to acquire the fixed asset(s) and the remaining amount (25% or less) was incurred for the benefit of the small business seeking the refinancing; and
 - The existing debt is the most recent refinancing of the original loan."
- b. Subparagraph C(11)(b)(vi) is deleted in its entirety and replaced with the following:
 - "vi. The financing will provide a substantial benefit to the Borrower when prepayment penalties, financing fees, and other financing costs are accounted for.
 - "Substantial Benefit" means that the portion of the new installment amounts attributable to the debt being refinanced must be less than the existing installment amount(s). The total installment amount is determined by adding the two installment amounts attributable to the refinancing using the interest rate of the most recent debenture funding on the 504 loan and the committed interest rate of the Third Party Lender loan. The total amount must be less than the existing installment amount(s).
 - a) Prepayment penalties, financing fees, and other financing costs must also be added to the amount being refinanced in calculating the reduction in the new installment payment.
 - b) Loans with seasonal payments would meet the Substantial Benefit test if there was an improvement in the installment when calculated by averaging all payments over the most recent twelve month period from date of application and comparing that to the new installment amount attributable to the debt being refinanced.
 - c) Loans with balloon payments meet the Substantial Benefit test independent of the reduction requirement."

c. Subparagraph C(11)(i) is deleted in its entirety and replaced with the following:

“i. In its commitment letter (Exhibit 15 of SBA Form 1244), the Third Party Lender must certify that it has no reason to believe that the following statements in paragraphs i. and ii. below are not true:

i. Either:

a) Substantially all (75% or more) of the proceeds of the indebtedness being refinanced were used to acquire an Eligible Fixed Asset (*e.g.*, land, including a building situated thereon, to construct a building thereon, or to purchase equipment) and the remaining amount (25% or less) was incurred for the benefit of the small business seeking the refinancing; or

b) If the Eligible Fixed Asset(s) was originally financed through a commercial loan (the “original loan”) that was subsequently refinanced one or more times:

i) Substantially all (75% or more) of the proceeds of the original loan was used to acquire an Eligible Fixed Asset (*e.g.*, land, including a building situated thereon, to construct a building thereon, or to purchase equipment) and the remaining (25% or less) was incurred for benefit of the small business seeking the refinancing; and

ii) The existing debt is the most recent refinancing of the original loan.

ii. All of the proceeds of the indebtedness being refinanced were used for the benefit of the small business.

iii. In addition, if the indebtedness being refinanced is debt of the Third Party Lender, or any of its affiliates (Same Institution Debt), the Third Party Lender must certify in its commitment letter that it is not in a position to sustain a loss causing a shift to SBA of all or part of a potential loss from the existing debt.”

Questions

Questions concerning this Notice may be directed to the Lender Relations Specialist in the [local SBA Field Office](#).

Kathryn Frost
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Office of Capital Access