

SBA ELIGIBILITY QUESTIONNAIRE FOR STANDARD 7(a) GUARANTY

This questionnaire is a tool to assist lenders in making basic eligibility determinations. For more information on eligibility, please refer to SOP 50 10 5(C). **If eligibility is questionable, contact the Standard 7(a) Loan Guaranty Processing Center (LGPC) at 877.475.2435 or 7aquestions@sba.gov for guidance.** Final eligibility determinations for Standard 7(a) loans are made by SBA, not the lender.

For all statements marked "False", the loan is ineligible or requires additional information and clarification.

I. General Information -- Complete the following

Applicant Name _____

Lender Name _____

Describe Type of Business _____

Purpose of Loan _____

a. *The products and/or services of the Applicant business are available to the **general public**.* **TRUE**___ **FALSE**___

b. *The loan will provide a **benefit to the small business**.* **TRUE**___ **FALSE**___

c. *The applicant does **not discriminate** with respect to goods, services, or accommodations offered based on race, color, religion, sex, marital status, handicap or national origin of a person **or fail or refuse to accept a person on a non-segregated basis as a customer**.* **TRUE**___ **FALSE**___

II. Ineligible Businesses -- Certain types of businesses are not eligible for SBA assistance. Review each of the types of businesses listed below to determine whether the Small Business Applicant falls into one of the categories.

- A non-profit business
- Primarily engaged in lending
- A passive business that holds real and/or personal property from which it receives rental income and does not provide sufficient services so as to be considered active, and is not an Eligible Passive Company, discussed below (e.g. flea market, shopping center)
- A life insurance company (life insurance agents, however, may be eligible)
- Located outside the United States
- A pyramid sales distribution plan
- Derives more than one-third of gross annual revenue from legal gambling activities
- Engaged in any illegal activity
- Requires membership and limits the number of memberships for reasons other than capacity.
- A government-owned entity (a business owned or controlled by a Native American tribe is eligible if the business is a legal entity separate from the tribe)
- Principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting
- A consumer or marketing cooperative
- A loan packager earning more than 1/3 of its gross annual revenue from packaging SBA loans
- Business with an associate who is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude
- Business in which the Lender or any of its associates owns an equity interest
- Business which presents live performances of a prurient sexual nature or derives more than 5 percent of its gross revenue from the sale of products or services, or the presentation of any depictions or displays of a prurient sexual nature
- Business that has defaulted, or has a principal who has defaulted, on a Federal loan or Federally-assisted financing resulting in the Federal government sustaining a loss, (unless waived by SBA for good cause)
- Primarily engaged in political or lobbying activities
- A speculative business (such as a shopping center developer, oil wildcatting, R&D)

*The Small Business Applicant is **not** any of the preceding **ineligible business types**.* **TRUE**___ **FALSE**___

III. **Potentially Ineligible Businesses** -- The following businesses may be eligible, but must adhere to strict SBA guidelines.

- Applicant receives income from legal **gambling** activities. These types of business are only eligible if:
 - this income is 1/3 or less of gross annual revenue and
 - the business is not a racetrack or casino, or otherwise have gambling as its primary purpose.
- Applicant is a **pawn shop**. Pawn shops are only eligible if more than 50% of its income for the previous year was from the sale of merchandise rather than from interest on loans.
- Applicant is a **hotel, motel, trailer park** (RV park), campground or similar type of business. These types of businesses are eligible if more than 50% of the business's revenue for the prior year is derived from transients who stay for 30 days or less at a time.
- Applicant is a **medical facility**. These types of businesses are only eligible if: they meet the generally accepted standards for their type of institution and, where required, have a license in good standing or assurance from the licensing agency that a license will be issued subsequent to SBA financing. Residential care facilities that are licensed as nursing homes or assisted living facilities are eligible.

The Small Business Applicant is **not** one of the preceding **potentially ineligible business types**.
 TRUE ___ FALSE ___

IV. **Citizenship** -- SBA has certain restrictions and requirements when principals of a business are not U.S. citizens.

All principals are **U.S. citizens**.
 TRUE ___ FALSE ___
 If "False", complete the Alien Ownership Addendum (Addendum A)

V. **Statement of Personal History, SBA form 912** -- SBA has specific procedures for anyone required to provide a Personal History Statement (SBA Form 912) who has been arrested. If an individual answered "Yes" to question 7 on Form 912 and is presently under indictment, on parole or probation, the loan is **ineligible**, and there is no need to proceed further.

Questions **#7-9** are all marked "**No**" on **SBA Form 912**.
 TRUE ___ FALSE ___
 If "False", complete the Statement of Personal History Addendum (Addendum B)

VI. **Size Standard** -- Complete this section for the business applicant. SBA will use this information to determine if the applicant meets the applicable size standard and qualifies as a small business.

(Use only one size standard)

<u>Regular Size Standard</u>	<u>Alternative Size Standard</u>
Avg. gross receipts over last 3 fiscal years _____	Avg. net income over last 2 fiscal years (after federal income tax) _____
Number of employees _____	Tangible net worth _____

*The new alternative size standard is found in Policy Notice 5000-1175 which can be found at:
http://archive.sba.gov/idc/groups/public/documents/sba_program_office/bank_5000-1175.pdf

VII. **Affiliation** -- Entities are affiliated if one has the power to control the other or a third party has the power to control both. For the full definition of affiliation, see 13 CFR 121.103.

The Applicant **does not** have any **possible affiliates**.
 TRUE ___ FALSE ___
 If "False", complete the Affiliate Eligibility Addendum (Addendum C)

VIII. Preference -- A lender may not take any action in connection with an SBA-guaranteed loan that establishes a preference in favor of the lender.

The Applicant **is not** currently seeking **other financing**. **TRUE**___ **FALSE**___
 If "False", provide the following information for the loan(s). Attach an additional "Comments" page if necessary.

Loan Amount:	Loan Amount:
Repayment Terms:	Repayment Terms:
Collateral:	Collateral:
Purpose of Loan:	Purpose of Loan:

IX. Personal Resources Test -- SBA may not provide financial assistance to an applicant able to obtain reasonable, non-federal financing, including the utilization of the excess liquid assets of the principals of the applicant.

(Complete the following)

<p>Step 1</p> <p>SBA Loan Amount \$ _____</p> <p>Other Financing \$ _____</p> <p>Cash Injection \$ _____</p> <p>Total Financing Package \$ _____</p>	<p>Step 2</p> <p>If Total Financing Package is:</p> <p>___ \$250,000 or less, the greater of 2X the total financing package or \$100,000</p> <p>___ \$250,001 to \$500,000, the greater of 1.5X the total financing package or \$500,000</p> <p>___ Over \$500,000, the greater of 1.0X the total financing package or \$750,000</p>
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Step 3
 Per the calculation from Step 2 above, the **maximum liquid assets per principal** is:
 \$ _____

List of Principals	Principal's Liquid Assets
_____	_____
_____	_____
_____	_____
_____	_____

None of the principals have liquid assets that **exceed the maximum liquid assets per principal** as calculated above. **TRUE**___ **FALSE**___

If "False", provide the name of the principal(s) and the excess amount

_____ Name of principal(s)

_____ Excess Liquid Assets

"Principals" are sole proprietors, general partners and owners of a 20% interest (including any interest held by spouses and dependent children) in the applicant.

"Liquid Assets" are cash and cash equivalents, including savings accounts, CDs, marketable securities, the cash value of life insurance and similar assets. Qualified retirement accounts such as IRAs, Keogh or 401k plans, as well as Health Savings Accounts, Educational Savings and other similar assets are **NOT** liquid assets.

"Excess Liquid Assets"—The amount by which each principal's liquid assets (including the assets of spouses and children) exceed the maximum liquid asset amount indicated above. The SBA loan must be reduced accordingly and the excess must be injected into the project prior to any disbursement.

X. **Eligible Passive Company (EPC) Rule** -- This rule is an exception to SBA regulations that prohibit financing assets which are held for their passive income. Because the EPC rule is an exception, it is interpreted strictly.

*Loan proceeds are **not** being used to finance or refinance **fixed assets owned by an entity other than the Operating Company (OC).*** **TRUE**___ **FALSE**___

If "False", complete the Eligible Passive Company/Operating Company Addendum (Addendum D)

XI. **Use of Proceeds** -- Additional requirements apply to particular uses of SBA loan proceeds. Respond to the statements below to determine whether supplemental information must be provided.

a. *Loan proceeds are **not** being used to **refinance debt.*** **TRUE**___ **FALSE**___
If "False", complete the Debt Refinancing Addendum (Addendum E)

b. *Loan proceeds are **not** being used for a **change of ownership** (or to refinance a previously financed change of ownership).* **TRUE**___ **FALSE**___
If "False", complete the Change of Ownership Addendum (Addendum F)

c. *Loan proceeds are **not** being used to finance real estate acquisition, construction, renovation or improvements of a **building that will contain rental space.*** **TRUE**___ **FALSE**___
If "False", complete the Leased Space Addendum (Addendum G)

d. *Loan proceeds are **not** being used to build in a **coastal barrier resource system** (compliant with the Coastal Barrier Act).* **TRUE**___ **FALSE**___
If "False", discuss in an attached "Comments" page

e. *Loan proceeds are **not** being used to affect a property included or eligible to be included in the **National Register of Historic Places?*** **TRUE**___ **FALSE**___
If "False", discuss in an attached "Comments" page

Ineligible Uses of Proceeds -- The following uses of proceeds are ineligible.

- To repay delinquent IRS withholding taxes, sales taxes or similar funds held in trust.
- To provide or refinance funds used for payments, distributions, or loans to Associates of the Applicant, except payment of ordinary compensation for services rendered at a fair and reasonable rate.
- Relocation of the business out of a community if there will be a net reduction of one-third of its jobs or a substantial increase in unemployment in any area of the country unless the relocation is for key economic reasons crucial to the applicant and the benefits to the applicant and the receiving community outweigh the negative impact on the community from which the applicant is moving.
- Community improvements, such as curbs and sidewalks, in excess of 5 percent of construction proceeds of this loan.

*The loan request does **not** involve any of the preceding **ineligible uses of proceeds.*** **TRUE**___ **FALSE**___
If "False", the loan request is **ineligible**

XII. **Terms of the Loan** -- SBA has restrictions on the guaranty percentage, loan maturity, interest rate and total loan amount. Respond to all the statements below. If "False" is checked, the loan may not be eligible.

a. **Maximum Guaranty Percentage:** The SBA maximum guaranty percentage is 85% for loans of \$150,000 or less and 75% for loans over \$150,000 (except for EWCP and International Trade Loans which have a 90% maximum guaranty).

*The requested **guaranty percentage** is within these parameters.* **TRUE**___ **FALSE**___

b. **Loan Amount:** The maximum loan amount allowed under SBA's loan program varies by product but generally cannot exceed \$5 million.

*The requested **loan amount** is within this size limit.* **TRUE**___ **FALSE**___

- c. **Aggregate Guaranty Amount:** The maximum SBA guaranty amount outstanding of all loans to any one business (including affiliates) regardless of when the loans were approved cannot exceed \$3.75 million.

The aggregate **guaranty amount** for the Applicant is within this limit. **TRUE**___ **FALSE**___

Note: For applicant with an International Trade loan (ITL), the aggregate SBA guaranty amount must not exceed \$4,500,000. The maximum SBA guaranty amount for any working capital component of an ITL loan is limited to \$4 million. Additionally, to the extent that the borrower has a separate EWCP loan or any other 7(a) loan for working capital, the SBA guaranty amount for those loans is counted against the \$4,000,000 guaranty limit for working capital for the ITL loan.

- d. **Maturity:** The maturity of the loan must be the shortest appropriate term consistent with the Applicant's repayment ability AND the useful life of the asset(s) being financed. The maximum maturities are the following:

- Working Capital or Inventory - allowable up to 10 years with sufficient justification
- Equipment, Fixtures or Furniture - generally not more than 10 years, but allowable up to 25 years, not to exceed the useful economic life of the equipment, fixtures or furniture.
- Real Estate - 25 years, plus the additional time needed to complete construction.
- Refinancing - maturity is based on the use of proceeds of the underlying loan being refinanced.
- Varied Purposes - the blended maturity based on the use of proceeds or up to the maximum for the asset class comprising the largest percentage of the use of proceeds.

The requested **loan term** is within these limits. **TRUE**___ **FALSE**___

- e. **Interest Rate:** A loan may have a fixed or variable interest rate. The maximum interest rate that may be established for any 7(a) loan is governed by SBA's regulations on interest rates, which preempt any provisions of a state's constitution or law. The lender negotiates the interest rate with the Small Business Applicant, subject to SBA's maximum rates.

Loans \$25,000 or less (Maturity less than 7 years)	Cannot exceed Base Rate + 4.25%
Loans \$25,000 or less (Maturity 7 years or more)	Cannot exceed Base Rate + 4.75%
Loans more than \$25,000 up to \$50,000 (Maturity less than 7 years)	Cannot exceed Base Rate + 3.25%
Loans more than \$25,000 up to \$50,000 (Maturity 7 years or more)	Cannot exceed Base Rate+ 3.75%
Loans greater than \$50,000 (Maturity less than 7 years)	Cannot exceed Base Rate + 2.25%
Loans greater than \$50,000 (Maturity 7 years or more)	Cannot exceed Base Rate + 2.75%

Variable Base Rate: If the rate is to be variable, the Base Rate can be either:

1. The Prime Rate printed in a national financial newspaper published each business day (WSJP),
2. LIBOR One Month Rate plus 3 percent (LIBOR), or
3. SBA's optional Peg Rate (PEG).

Fixed Base Rate: If the rate is to be fixed for the entire term of the loan, the Base Rate must be:

1. SBA's Fixed Base Rate.

The rate used is the one in effect on the date that SBA receives the **complete** application.

For current rates, please visit <http://www.colsonservices.com/main/news.shtml>

The requested **interest rate** is within these parameters. **TRUE**___ **FALSE**___

XIII. Conflicts of Interest -- Due to potential conflicts of interest, in certain circumstances loans may require approval at a higher level within SBA. Review the following scenarios which represent potential conflicts of interest.

- An SBA employee, or the household member* of an SBA employee is a sole proprietor, partner, officer, director or stock holder with a 10 percent or more interest of the Applicant. [13 CFR 105.204]
- A former SBA employee separated from SBA for less than one year is an employee, attorney, agent, creditor or debtor, has a financial interest in the Applicant or is an officer or director of the Applicant.
- An individual currently involved in a Small Business Development Company program or a member of their household has a significant financial interest in the Applicant.
- A member of Congress or an appointed official or employee of the legislative or judicial branch of the Federal Government (or a household member of such an individual) is a sole proprietor, general partner, officer, director or has a 10 percent or more ownership interest in the Applicant.
- A member or employee of a Small Business Advisory Council or a SCORE volunteer (or a household member of such an individual), is a sole proprietor, general partner, officer, director, or has a 10 percent or more ownership interest in the Applicant.
- Employee (or member of employee's household) of a community organization such as a certified development company or microlender has a significant financial interest in the Applicant.
- A community organization (except state and local development companies) or its officers or its directors have a significant financial interest in the Applicant unless the organization has been inactive in packaging SBA loans for at least two years prior to the application date.

*A "household member" of an SBA employee includes: a) the spouse of the SBA employee; b) the minor children of said individual; and c) the blood relatives of the employee, and the blood relatives of the employee's spouse, who reside in the same place of abode as the employee. [13 CFR 105.201(d)]

*None of the above mentioned scenarios that may create a **conflict of interest** apply to this loan request.*

TRUE___ FALSE___

If "False", attach a "Comments" page with a detailed explanation of the relationship

Statement of No Objection -- There are certain requirements for officers or employees of other Government organizations (including the military).

None** of the proprietors, partners, officers, directors or stockholders with a 10 percent or more interest of the business, or a household member, is **an employee of another Government Department or Agency having a grade of at least GS-13 or its equivalent.

TRUE___ FALSE___

If "False", provide a statement of no objection from the pertinent department or military service for approval by the Standards of Conduct Committee.

XIV. Ethical Requirements -- SBA lenders must act ethically and exhibit good character. Conduct of a lender's Associates and staff will be attributed directly to the lender. Lenders are required to notify SBA immediately upon becoming aware of any unethical behavior by its staff or its Associates. Review the following list of potential ethical violations.

- Lender or Associate of Lender* has a real or apparent conflict of interest with Applicant, any of Applicant's Associates, or any of the close relatives of Applicant's Associates.
- Lender or Associate or close relative of lender has a significant direct or indirect financial or other interest in the applicant, or has had such an interest within 6 months prior to the date of the application. SBA reserves the right to deny liability on its guaranty in the event that the borrower defaults, if the lender, its Associates, partner or a close relative acquires such an interest at any time during the term of the loan.
- Lender or any Associate of Lender is incarcerated, on parole, or on probation or is a convicted felon or has an adverse final civil judgment (in a case involving fraud, breach of trust, or other conduct) that would cause the public to question the Lender's business integrity.

- Lender or any Associate of Lender has accepted funding from a source that restricts, prioritizes, or conditions the types of small businesses that Lender may assist under an SBA program or that imposes any conditions or requirements upon recipients of SBA assistance inconsistent with SBA's loan programs or regulations.
- Loan proceeds will directly or indirectly finance purchase of real estate, personal property or services from Lender or an Associate of Lender.
- Applicant, an Associate of Applicant, or close relative of Associate of Applicant is required to invest in Lender.
- Proceeds will be used to acquire space in a project for which lender has issued a real estate forward commitment.

*Associate of a Lender is an officer, director, key employee, or holder of 20 percent or more of the value of the Lender's stock or debt instruments. An Associate of a small business is an officer, director, owner of more than 20 percent of the equity, or key employee.

*None of the preceding **potentially unethical scenarios** apply to this loan request.*

TRUE ___ **FALSE** ___

If "False", attach a "Comments" page with a detailed explanation of the circumstances

XV. Special Programs -- CAPLines, Export Working Capital Loans and/or International Trade Loans

a. The loan is **not** being made under one of the **CAPLines loan programs**. **TRUE** ___ **FALSE** ___

If "False", complete the CAPLines Addendum (Addendum H)

b. The loan is **not** being made under the **Export Working Capital Program (EWCP)**.

TRUE ___ **FALSE** ___

If "False", complete the EWCP Addendum (Addendum I)

c. The loan is **not** being made under the **International Trade Program (IT)**. **TRUE** ___ **FALSE** ___

If "False", complete the IT Addendum (Addendum J)

XVI. Submission of Form 4506-T -- Provide the date that **Form 4506-T** was submitted to IRS: _____

XVII. Life Insurance -- Lender must determine if the viability of the business is tied to an individual or individuals. In these situations, the lender must require life insurance.

Life insurance will be required for this loan request.

TRUE ___ **FALSE** ___

If "True", provide name(s) and amount(s) of life insurance required

If "False", provide lender's justification for requesting a waiver of life insurance

Lender's Certification:

Lender hereby certifies that the above information is true and correct to the best of its knowledge and that it has exercised due diligence to obtain true and correct information.

Lender Signature: _____ Date _____

Name and Title: _____

COMMENTS PAGE

ALIEN OWNERSHIP ELIGIBILITY ADDENDUM (Addendum A)

Respond to the statements below. This will assist in determining eligibility and other requirements relating to alien ownership:

1. **None** of the principals of the Applicant (or of any concern with an ownership interest in the Applicant) are **undocumented (illegal) aliens**. **TRUE___ FALSE___**

If "False", the loan is **ineligible**

2. Check one of the following boxes:

*The Applicant business is at least **51 percent owned** by individuals who are either **U.S. citizens** or have **Legal Permanent Resident (LPR) status**. If checked, Applicant must comply with both (a) and (b) below for all aliens.*

*The Applicant business is at least **51 percent owned** by aliens with a **verified status other than LPR**. If checked, Applicant must comply with both (a) and (c) below for all aliens.*

(a) Lender must obtain USCIS verification of the status of the documented alien(s) using USCIS form G-845. Submit this USCIS verification to the SBA together with the application. Electronic verification is available by email to: SacramentoAlienVerification@sba.gov

(b) The Applicant business must be at least 51 percent owned by individuals who are either U.S. citizens or have LPR status and who control the management and daily operations of the business.

(c) If Applicant is at least 51 percent owned by aliens with a verified status other than LPR:

- The application must contain assurance that management is expected to continue in place indefinitely and have U.S. citizenship or verified LPR status.
- Management has operated the business for at least 1 year prior to the application date
- Management will provide a personal guaranty, unless the loan officer report explains why this guaranty is not needed
- Collateral is pledged that is sufficient to pay the loan in full at any time.

*The applicable **USCIS verification** and **alien ownership requirements** have been met.* **TRUE___ FALSE___**

If "False", the loan is **ineligible** until these requirements have been met

3. *The Applicant is **not** a **foreign-owned business**.*

TRUE___ FALSE___

If "False", Applicant must comply with all of the following:

- Be located in the U.S.
- Operate primarily within the U.S.
- Pay taxes to the U.S
- Use loan proceeds exclusively for the benefit of the domestic operations
- Use American products, materials and labor
- Separate continual and consistent management of the business has been provided by a U.S. citizen or by a verified LPR and will continue indefinitely
- Management has operated the business for at least 1 year prior to the application date
- Management will provide a personal guaranty, unless the loan officer report explains why this guaranty is not needed
- Collateral is pledged that is sufficient to pay the loan in full at any time

SBA FORM 912: STATEMENT OF PERSONAL HISTORY ADDENDUM (Addendum B)

This form must be completed for each principal with any history of arrest. In addition to completing this form, the principal is required to complete and submit a Fingerprint Card (FD 258) if **any** of the following apply:

- Principal was arrested for a Felony offense
- Principal was arrested more than 3 times
- Principal was arrested more than once in the last 10 years

Principal Name: _____

List Charge(s)

Charge:	__ Felony	__ Misdemeanor
Month/Day/Year of Arrest (if actual day unknown, then Month/Year):	City, County & State of Arrest:	
<i>Disposition of Charge (List Specific Details)</i>		
Sentence:		
Fine:		
Other:		
Date Disposition Completed:		

Charge:	__ Felony	__ Misdemeanor
Month/Day/Year of Arrest (if actual day unknown, then Month/Year):	City, County & State of Arrest:	
<i>Disposition of Charge (List Specific Details)</i>		
Sentence:		
Fine:		
Other:		
Date Disposition Completed:		

Charge:	__ Felony	__ Misdemeanor
Month/Day/Year of Arrest (if actual day unknown, then Month/Year):	City, County & State of Arrest:	
<i>Disposition of Charge (List Specific Details)</i>		
Sentence:		
Fine:		
Other:		
Date Disposition Completed:		

**Attach additional sheets if needed*

Signature: _____

Date: _____

AFFILIATE ELIGIBILITY ADDENDUM (Addendum C)

Please complete this form for all possible affiliates. Use the same size standard (Regular or Alternative) that was chosen for the Operating Company on page 2 of the Eligibility Questionnaire. Attach additional sheets as needed.

Legal Name of Affiliate: _____ **NAICS Code:** _____

(Use only one size standard for all Affiliates and Operating Company)

<u>Regular Size Standard</u>	<u>Alternative Size Standard</u>
Avg. gross receipts over last 3 fiscal years _____	Avg. net income over last 2 fiscal years _____ (after federal income tax)
Number of employees _____	Tangible net worth _____

Legal Name of Affiliate: _____ **NAICS Code:** _____

(Use only one size standard for all Affiliates and Operating Company)

<u>Regular Size Standard</u>	<u>Alternative Size Standard</u>
Avg. gross receipts over last 3 fiscal years _____	Avg. net income over last 2 fiscal years _____ (after federal income tax)
Number of employees _____	Tangible net worth _____

Legal Name of Affiliate: _____ **NAICS Code:** _____

(Use only one size standard for all Affiliates and Operating Company)

<u>Regular Size Standard</u>	<u>Alternative Size Standard</u>
Avg. gross receipts over last 3 fiscal years _____	Avg. net income over last 2 fiscal years _____ (after federal income tax)
Number of employees _____	Tangible net worth _____

Legal Name of Affiliate: _____ **NAICS Code:** _____

(Use only one size standard for all Affiliates and Operating Company)

<u>Regular Size Standard</u>	<u>Alternative Size Standard</u>
Avg. gross receipts over last 3 fiscal years _____	Avg. net income over last 2 fiscal years _____ (after federal income tax)
Number of employees _____	Tangible net worth _____

*The new alternative size standard is found in Policy Notice 5000-1175 which can be found at:
http://archive.sba.gov/idc/groups/public/documents/sba_program_office/bank_5000-1175.pdf

ELIGIBLE PASSIVE COMPANY (EPC)/OPERATING COMPANY (OC) ADDENDUM (Addendum D)

The Eligible Passive Company (EPC) rule is an exception to SBA regulations that prohibit financing assets which are held for their passive income. Because the EPC rule is an exception, it is interpreted strictly. Below are conditions necessary to qualify as an EPC.

Name of entity holding title to the fixed assets (Eligible Passive Company/EPC):

Name of Operating Company (OC):

- The EPC will use the loan proceeds to acquire or lease, and /or improve or renovate real or personal property that it leases 100% to one or more OCs
- The OC is an eligible small business and the proposed use of proceeds would be an eligible use if the OC were obtaining the financing directly
- The EPC (with the exception of a trust) and the OC each are small under SBA's size standards
- The OC will be a guarantor or co-borrower. If loan proceeds include working capital or assets to be owned by the OC, the OC will be a co-borrower
- Each 20% or more owner of the EPC and each 20% or more owner of the OC will guaranty the loan and comply with the Utilization of Personal Resource Rule
- The lease between the EPC and the OC will be in writing and will have a remaining term at least equal to the term of the loan (including options to renew exercisable solely by the Operating Company)
- The lease will be subordinate to SBA's lien on the property
- The EPC must assign the rents from the lease as collateral for the loan
- The lease payments from the OC to the EPC will not exceed the loan payment (plus any amount needed to cover the EPC's expenses of holding the property, such as maintenance, insurance and property taxes)
- The aggregate amount of the SBA portions for this application and for all outstanding loans to the EPC, the OC, and their affiliates does not exceed \$3.75 million (\$4.5 million for International Trade Loans)
- If the EPC is a trust, SBA requirements regarding trusts are met (see SOP 50-10(5)(C), subpart B, Chapter 2, paragraph 3.f.(3), page 124)

The EPC and OC(s) comply with all of the conditions listed above. **TRUE ___ FALSE ___**
If "False", the loan request is **ineligible** as structured. Please contact the 7(a) Standard LGPC for guidance

DEBT REFINANCING ADDENDUM QUESTIONNAIRE (Addendum E, Page 1)

Respond to each statement below. If "False" is checked for Questions #1-5, the use of proceeds for refinancing is ineligible.

1. The debt to be refinanced has an **original purpose** that would have been **eligible for SBA financing**. TRUE___ FALSE___

For an Applicant to be eligible for debt refinancing, the debt must not presently be on reasonable terms and in the event of refinanced long term debt, the new installment must be at least **10% less than the existing installment amount(s)**. (Revolving lines of credit are not considered "long term debt".)

Existing debt is **presently on unreasonable terms** if it is:

- (i) short or long term debt structured with a demand note or balloon payment;
- (ii) debt the Lender believes no longer meets the needs of the Small Business Applicant;
- (iii) debt with an interest rate that exceeds the SBA maximum interest rate for the processing method used;
- (iv) credit card obligations used for business related purposes;
- (v) debt that was over collateralized at inception (however, the SBA guaranteed loan must meet SBA collateral requirements).
- (vi) revolving lines of credit (short or long term) where the original lender is unwilling to renew the line or the applicant is restructuring its financing in order to obtain a lower interest rate or longer term.
- (vii) debt with a maturity that was not appropriate for the purpose of the financing (e.g. a 3 year term loan to finance a piece of equipment with a useful life of 15 years).

2. The existing debt meets one of the above criteria for determining it to be on **unreasonable terms**. TRUE___ FALSE___

Proceeds may not be used to pay a **creditor in a position to sustain a loss** causing a shift to SBA of all or part of a potential loss from an existing debt.

A creditor is in a position to sustain a loss if repayment cannot be reasonably demonstrated and the loan is not fully collateralized using reasonable liquidation values.

However, SBA may not be in the position to sustain the same loss by refinancing the debt if new terms and conditions provide reasonable assurance of repayment or additional assets can be acquired so that the loan becomes fully collateralized.

3. The Lender is **not** currently in a **position to sustain a loss** and SBA **will not** be placed in a position to sustain a loss by refinancing the debt. TRUE___ FALSE___

4. The loan **will not** refinance **debt owed to an SBIC**. TRUE___ FALSE___

5. The loan **will not** refinance **third party financing** for any existing 504 project. TRUE___ FALSE___

6. The loan **will not** refinance **same institution debt**. TRUE___ FALSE___

If "False", provide the following information:

- A transcript of the loan(s) showing the due dates and when payments were received. In addition, the lender must explain any late payments and late charges that have occurred during the last 36 months.

7. The loan **will not** refinance a **prior SBA loan**. TRUE___ FALSE___

If "False", address the following requirements:

- If the prior SBA loan is being refinanced through a new lender, document that the new lender has contacted the lender holding the existing SBA loan and confirmed that the lender has declined to approve a second loan and is either unwilling or unable to modify the current payment schedule in such a way that a new lender could approve a loan without SBA's guaranty.
- If a lender is refinancing its own SBA guaranty loan, document that the sole reason the lender is unable to modify the terms of the existing loan is that a secondary market investor will not agree to modified terms.

8. The loan **will not** refinance **credit card debt**. TRUE___ FALSE___

If "False", address the following requirements:

- The borrower must certify that the credit card debt being refinanced was incurred exclusively for business purposes.
- Lenders must document their loan file in accordance with SOP 50 10 5 (C), subpart B, Chapter 2, Pages 143 – 144.

DEBT REFINANCING ADDENDUM WORKSHEET (Addendum E, Page 2)

Complete a separate table and respond to all questions for each debt to be refinanced. Print multiple copies of this worksheet as necessary.

<i>Existing Loan Terms</i>	<i>Proposed Loan Terms</i>
Creditor Name:	Creditor Name:
Borrower Name:	Borrower Name:
Current Loan Balance:	Refinance Amount: *
Current Interest Rate:	Proposed Interest Rate:
Original Loan Term:	Proposed Loan Term:
Current Payment Amount:	Proposed Payment Amount:
	Identify Savings Amount per month:
	Identify Savings Percentage:
Identify Collateral that Secures the Existing Loan:	

* This amount should be the same as the current loan balance that you are refinancing, NOT the total amount of the SBA loan.

Questions to address:

- Why was the debt incurred? What was the original use of proceeds? (If the loan was to refinance another debt, lender must still address the original use of that debt.)

- Neither over-obligated nor imprudent debt scheduling has necessitated a major restructuring of the debt. **TRUE ___ FALSE ___**

- How will the new loan improve the financial condition of the business and what benefit will refinancing give the applicant?

- The debt is currently on **unreasonable terms**. **TRUE ___ FALSE ___**
If "False", the refinance is **ineligible**. If "True", explain why the debt is unreasonable.

- The refinancing **will not** include payments to **creditors in a position to sustain a loss** due to either an inadequate collateral position or low or deficit new worth. **TRUE ___ FALSE ___**
If "False", explain how additional collateral or altered terms will protect the interest of the agency:

CHANGE OF OWNERSHIP ADDENDUM (Addendum F)

SBA 7(a) loans may be used to finance a change of ownership for an existing business, subject to the requirements listed below. Respond to each statement below.

The following changes of ownership are not eligible:

- A non-owner who is purchasing a portion of the ownership of the business from a selling owner
- An existing owner who is purchasing the ownership of another existing owner that will not result in 100% ownership by the purchaser

1. The change of ownership request does not involve either of the **ineligible partial change of ownership** scenarios mentioned above. TRUE___ FALSE___

If "False", the loan is **ineligible**

2. How will the change of ownership **benefit the business** (not the seller or the buyer)?

3. The Applicant's **business financials for the past 3 years** have been verified with **IRS tax transcripts**.

TRUE___ FALSE___

If "False", address what other form of verification is being used:

4. Check one of the following boxes to determine the business valuation requirement.

- The amount being financed minus the appraised value of real estate and/or equipment is **\$250,000 or less**, and there is no close relationship between the buyer and seller. If checked, provide a copy of the lender's internal business valuation with loan submission. If the lender's internal policies and procedures require an independent business valuation for this transaction, then an independent valuation must be obtained from a qualified source and provided at time of loan submission.
- The amount being financed minus the appraised value of real estate and/or equipment is **greater than \$250,000**, or there is a close relationship between the buyer and seller. If checked, provide a copy of an independent business valuation from a qualified source at time of loan submission.

The appropriate **business valuation** has been submitted with the loan package.

TRUE___ FALSE___

5. The **Seller is not remaining** as an **officer, director, stockholder or key employee** of the business for more than 12 months after the change of ownership. TRUE___ FALSE___

If "False", the loan is **ineligible**

6. Check all applicable boxes:

- (a) The business has been transferred within 36 months of the date of loan application
- (b) The requested loan amount is greater than \$250,000
- (c) The change of ownership involves the purchase of real estate
- (d) None of the above apply to this loan request

If (a), (b), and (c) were all checked, then in addition to a real estate appraisal that meets typical SBA appraisal requirements, either a "review" of the appraisal by another appraiser selected directly by the lender or a site visit by a senior member of the lender's staff is required. If a site visit is conducted, the lender must document the file and include the date of the visit and a description of the items reviewed on site.

The **requirements** outlined in the preceding paragraph **have been met or are not applicable** to this loan request.

TRUE___ FALSE___

LEASED SPACE ADDENDUM (Addendum G)

"Rentable Property" is defined as usable square footage, including common areas, but excluding stairways, elevators and mechanical areas designed to transfer services vertically between floors.

1. *Check the applicable box:*

- Loan proceeds are being used for construction or for the refinance of a loan used to **construct a new building**. If checked, Applicant (Operating Companies) must occupy **60%** of the rentable property, may permanently lease up to 20% and temporarily lease an additional 20% with the intention of using some of the additional 20% within 3 years and all of it within 10 years.*
- Loan proceeds are being used for the purchase, renovation or reconstruction of an **existing building** (or for refinancing debt used for these purposes). If checked, Applicant (Operating Companies) must occupy at least **51%** of the rentable property.*

*Applicant complies with the applicable **occupancy requirements**, or will comply with them within the next twelve months.*

TRUE___ FALSE___

If "False", the loan is **ineligible**

2. *Loan proceeds **will not** be used to **remodel or convert** any **rental space** in the property. **TRUE___ FALSE___***
If "False", the loan is **ineligible**

CAPLINES ADDENDUM (Addendum H)

The CAPLines program is the umbrella for all of SBA's short-term working capital and line of credit programs (except for those dedicated to exporting). There are **five** separate sub-programs. There are requirements applicable to all CAPLines and unique requirements for various sub-programs and uses of proceeds. Respond to the applicable statements below. Further information can be found in SOP 50 10 5(C)

If any of the following questions are marked "False", the loan may not be eligible

General Requirements – Complete for all loans

1. The Applicant has **been in business for at least 1 year** or developed an adequate track record to assess its short-term working capital needs. **TRUE___ FALSE___**
2. The additional **servicing fee charged by the lender does not exceed 2 percent**, unless it is a Standard Asset Based CAPLine, which has no fee limitation. **TRUE___ FALSE___**
3. CAPLine proceeds are allocated for **short term working capital** (or refinance of an asset-based short term working capital loan if using the Standard or Small Asset Based CAPLine). **TRUE___ FALSE___**
4. The CAPLine has an **exit strategy**. **TRUE___ FALSE___**

Refinance Requirements – Complete if applicable

The refinanced portion must not include any term debt or identifiable permanent working capital, the refinancing will benefit the small business, and SBA will not be placed in a position to sustain a loss presently faced by existing lender. Such refinancing must be specifically approved in the Authorization.

Only Standard Asset Based and Small Asset Based CAPLines May Refinance Debt

5. CAPLine proceeds allocated toward **refinancing** are in compliance with the **above restrictions**. **TRUE___ FALSE___**
6. A **copy of the note(s)** to be refinanced, **loan transcript**, and a **borrowing base certificate with A/R aging** are included with the application. **TRUE___ FALSE___**
7. The borrower has a **sufficient borrowing base** to support refinancing the existing LOC being refinanced plus additional disbursements equal to at least one-third the total loan amount. **TRUE___ FALSE___**

Contract CAPLines – Complete if applicable

8. Loan proceeds will be solely used to finance the **labor and material costs** of the specific contract(s) being financed. **TRUE___ FALSE___**
9. The Contract has **assignable proceeds**. **TRUE___ FALSE___**
10. **Two sets of projections** are provided to SBA. (One is a month-to-month cash flow projection for each specific contract to be financed during the full contract period, and one is for all contract work to be performed during the same period) **TRUE___ FALSE___**
11. No **contract work** has begun **prior to SBA approval**. **TRUE___ FALSE___**

Seasonal CAPLines – Complete if applicable

12. Loan proceeds will be solely used to finance a **seasonal increase of accounts receivable and inventory** (seasonal nature of business must be documented). **TRUE___ FALSE___**
13. **Month-to-month cash flow projections** for the upcoming 12 months are provided. **TRUE___ FALSE___**
14. If this CAPLine covers **more than a single season** during the year, then each season's projections show the CAPLine **paid down to a zero balance for at least 30 days** prior to the new season. **TRUE___ FALSE___**

Builders CAPLines – Complete if applicable

15. The Applicant has **experience** doing similar type of work without a loss. **TRUE___ FALSE___**
16. Loan proceeds will be solely used for **direct expenses related to the construction** and/or “significant” renovation costs of a specific eligible project (residential or commercial buildings for resale). **TRUE___ FALSE___**
17. **Month-to-month cash flow projections** for all work to be performed by Applicant are provided. **TRUE___ FALSE___**
18. The lender has obtained a **letter** from the following entities.
(a) **A mortgage lender** indicating that permanent mortgage money is available to qualified purchasers to buy such properties;
(b) **A real estate broker** indicating that a market exists for the proposed building and that it will be compatible with its neighborhood; and
(c) **An architect, appraiser or engineer** agreeing to make inspections and certifications to support interim disbursements.
Note: A letter from a lender who has its own real estate lending department, staffed by personnel with appraisal and engineering experience may be substituted for one or more of the above-referenced letters. **TRUE___ FALSE___**

Standard Asset Based CAPLines – Complete if applicable

19. The **Cash Cycle** of the applicant is known. **TRUE___ FALSE___**
20. **Month-to-month cash flow projections** for 12 months are provided. **TRUE___ FALSE___**
21. **SBA Form AB-4** is complete and signed by applicant. **TRUE___ FALSE___**
22. **SBA Form AB-4-I** is complete and signed by lender. **TRUE___ FALSE___**
23. **LQS-2 – Lender Qualification Survey** is complete (if Lender is not already approved for Standard Asset Based Loans). **TRUE___ FALSE___ N/A___**

Small Asset Based CAPLines – Complete if applicable

24. The **Cash Cycle** of the applicant is known. **TRUE___ FALSE___**
25. **Month-to-month cash flow projections** for 12 months are provided. **TRUE___ FALSE___**
26. **SBA Form AB-4** is complete and signed by applicant. **TRUE___ FALSE___**
27. **SBA Form AB-4-I** is complete and signed by lender. **TRUE___ FALSE___**

All CAPLine forms above can be found in Appendix 7 of SOP 50 10 5(C).

EWCP ADDENDUM (Addendum I)

The EWCP has certain additional eligibility requirements. Respond to each statement below.

1. The Applicant has been **in business for at least 12 months**. TRUE___ FALSE___
If "False" is checked, explain the applicant's export trade experience or other managerial experience on an attached "Comments" page
2. Loan proceeds will be used for either of the following **two types of EWCP loan**.
- 1) Financing the working capital associated with a single transaction of the exporter or
2) Financing the working capital associated with multiple transactions of the exporter. This type of loan is a revolving line of credit.
- TRUE___ FALSE___
If "False", the loan is **ineligible**
3. Loan proceeds will be used for either:
- a. Pre-shipment working capital, consisting of any of the following:
- to acquire inventory or services for export or
 - direct and indirect costs for the manufacture of goods or sales of services
 - standby letters of credit used as performance bonds, bid bonds or payment guaranties to foreign buyers
- OR**
- b. Post-shipment working capital, consisting of foreign accounts receivable financing
Loan funds will not be used to finance professional export marketing advice or services, foreign business travel, participation in trade shows or supplement staff in overseas offices, except to the extent it relates directly to the transaction being financed.
- TRUE___ FALSE___
If "False", the loan is **ineligible**
4. The **Collateral** offered is a **first security interest** on all collateral associated with transaction(s) financed, to include export inventory, receivables, assignment of credit insurance, letters of credit proceeds and contract proceeds, as applicable.
- TRUE___ FALSE___
If "False", the loan is **ineligible**
5. The loan **term** is within 18 months for a single transaction loan or within one year for a revolving line of credit.
- TRUE___ FALSE___
If "False", the loan is **ineligible**
6. The guaranty portion is the lesser of 90% of the loan amount or \$4.5 million AND
- a. The aggregate guaranty portion for this application and all outstanding loans to Applicant and its affiliates does not exceed \$4.5 million OR
- b. If, in addition to this EWCP loan, the applicant will also have an International Trade loan the aggregate SBA guaranty amount does not exceed \$4,500,000 and the SBA guaranty amount on the EWCP loan and any other 7a working capital loan does not exceed \$4,000,000 AND
- c. If an **Ex-Im Bank Co-Guaranty** is being used, the loan amount does not exceed \$5 million, the SBA guaranty amount is the lesser of 90% of the loan amount or \$4.5 million, and the Ex-Im Bank guaranty is for the amounts in excess of the \$4.5 million SBA guaranty amount, up to 90% of the loan amount.
- TRUE___ FALSE___
If "False", the loan is **ineligible**
7. If the applicant is an **export management company (EMC)** or **export trading company (ETC)**, it will take title to the goods or services being exported.
- TRUE___ FALSE___ N/A___
If "False", the loan is **ineligible**
8. **EMCs AND ETCs**, if any, **do not** have any **ownership in a bank**.
- TRUE___ FALSE___ N/A___
If "False", the loan is **ineligible**

IT ADDENDUM (Addendum J)

IT ADDENDUM (Addendum J)

Answer the following questions. If "False" is checked, the loan may not be eligible. See Policy Notice 5000-1193 for changes to the International Trade Loan Program.

1. The applicant is currently **expanding existing export markets** or **developing new export markets**, or is confronting **increased competition** with foreign firms in the relevant market and is injured by such competition. TRUE___ FALSE___

2. Loan proceeds will be used to either:
 - a. acquire, construct, renovate, modernize, improve, or expand **facilities or equipment** to be used in the United States in the production of goods and services involved in international trade;

OR
 - b. **refinance** existing indebtedness that is not structured with reasonable terms and conditions, including any debt that qualifies for refinancing under the 7(a) loan program. The refinancing must also provide a substantial benefit to Applicants. TRUE___ FALSE___

3. The maximum **SBA guaranty amount** for any working capital component is **\$4 million or less**. TRUE___ FALSE___

4. Lender will take a **lien on the fixed assets** financed (or re-financed) with this loan. TRUE___ FALSE___

5. Collateral is **located in the United States**, its territories or possessions. TRUE___ FALSE___

6. Lender has reviewed **Ex-Im Bank's Country Limitation Schedule** to ensure that the U.S Government does not restrict trade with any country where the applicant does business. TRUE___ FALSE___