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# Getting Your Guaranty Honored

[www.sba.gov/banking](http://www.sba.gov/banking)

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# National Guaranty Purchase Center (NGPC) in Herndon, VA

- Ten Tab Submissions
- Pillars of the Purchase Request Review
- Common Reasons for Repairs and Denials
- CPC Tabs
- Charge-Off Tabs
- OIC Tabs
- Unilateral Action Matrix
- Semi Annual Status and Wrap-Up Reports

- According to 13 CFR 120.520, a Lender may demand in writing that SBA honor the guaranty on a 7(a) loan if:
  - The Borrower is in default on any installment for more than 60 calendar days;
  - The default has not been cured; and
  - All business personal property has been liquidated (for loans approved on or after May 14, 2007)

## **NGPC will honor the guaranty within 45 days or less if the package is complete**

- **The Center accomplished this goal by developing a Standard, Auditable, Purchase Review Process which includes the 10-Tab purchase package, Purchase Operations Manual, and automated recommendation process.**
- **Additionally, we value and engage our partners in the District Offices to assist lenders in preparing purchase packages and providing training.**
- **NOTE: For loans approved on or after 01/01/14, with a gross approval amount of \$350,000 or less, purchase request should be sent to the appropriate SBA servicing center to be processed (Little Rock or Fresno).**

- Provide a complete package with executed tabs to ensure quick processing. Include all required documents and answer all questions on tabs.
  - NOTE: If loan is ready for charge off at the time of purchase, NGPC will limit the ongoing guaranty fee deduction to 120 days (for Pre Purchase loans approved on or after 12/08/04).
- Inform us proactively of missing documents and deficiencies so we don't have to stop the process to ask.
- Build your loan file at origination using the 10-Tab system to ensure that all documents are present at origination.
- ALWAYS go the NGPC website to get up-to-date instructions and forms! <http://www.sba.gov/for-lenders>

## Possible Outcomes of Guaranty Purchase Review

- **Purchase:** Purchase request is complete, there is no harm to the Agency, and meets all criteria for honoring the payment in full. A decision to fund is reached within the 45-day Brand Promise.
- **Repair:** A decision is reached to honor the guaranty, but not in the full amount, due to a material deficiency during origination, closing, servicing, and/or liquidation.
- **Denial:** A decision is reached to deny the guaranty in full. This must have headquarters concurrence.
- **Cancel/Terminate:** Based on the facts of the case, the lender chooses to cancel or terminate the guaranty.
- **Withdraw:** Lender needs more time to collect documents and provide additional information, therefore withdraws the request. The guaranty is still in full effect and the purchase request can be made anytime thereafter. Loan can also be withdrawn (Pre) if lender has been unresponsive to customer service requests or processed as-is (Post) which could result in a repair/denial.

## The Four Facets of a Guaranty Purchase Review

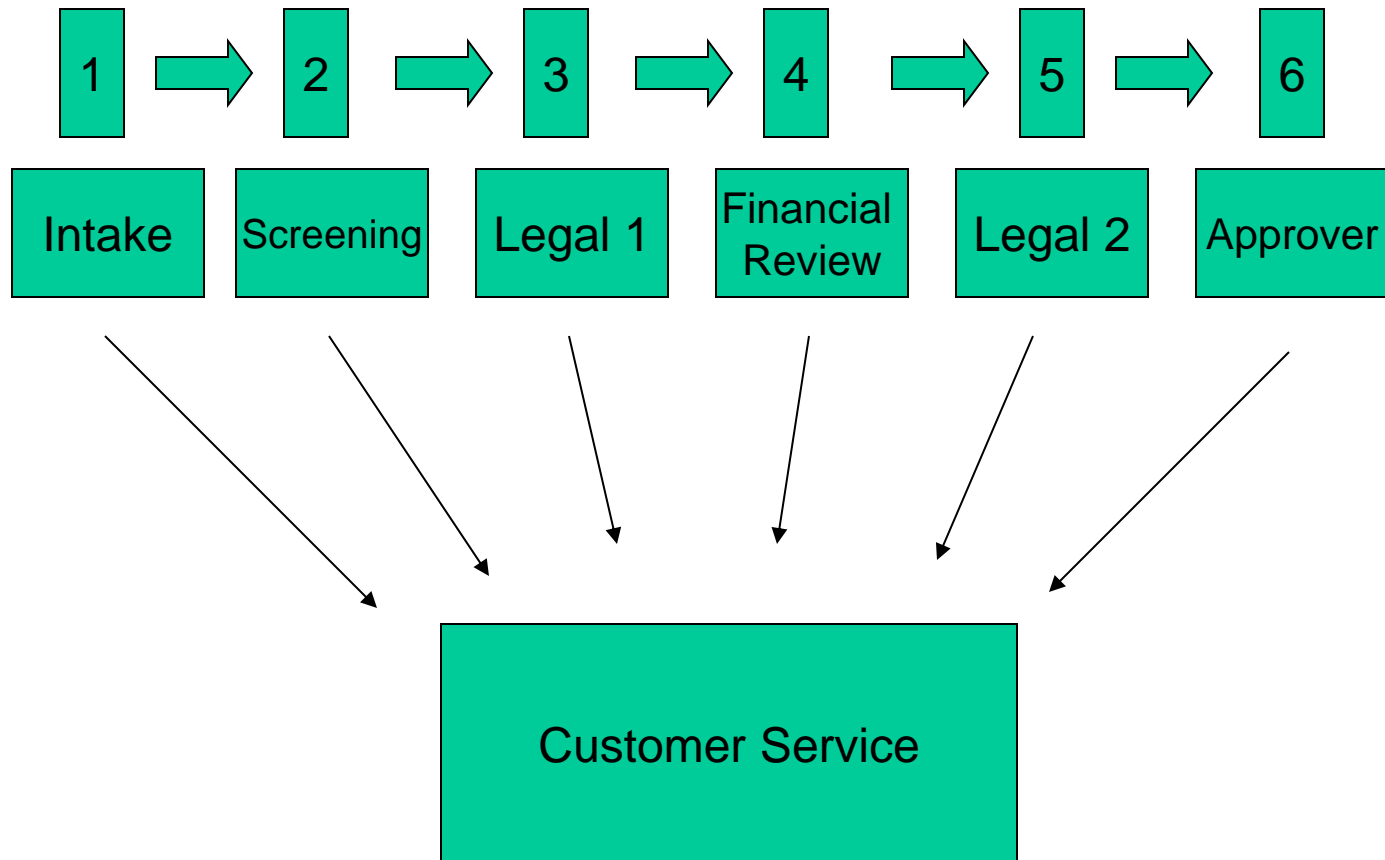
- **Origination:** Determine that the loan was originated in accordance with regulations and Standard Operating Procedures in place at the time of origination.
- **Closing:** Evaluate whether the loan was closed in accordance with the Loan Authorization.
- **Servicing:** Evaluate whether the servicing of the loan was in accordance with the loan documents, regulations, and prudent lending practices – and whether those actions caused harm to the Agency.
- **Liquidation:** Evaluate whether the liquidation and collection on the defaulted loan was prudent and followed program guidelines.

## Guaranty Purchase Flow

- The SBA regulations established the “Rule of Two” that all of the Centers must follow.
- This requires that one SBA official make a recommendation and another approve it.
- We are also required to have an attorney review each purchase request.
- Every purchase request is reviewed by a minimum of three SBA employees.



## Guaranty Purchase Process Flow – The Life of a Purchase Package



If a purchase package is complete it moves from step 1 through step 6 with no stops. If there are questions or missing documents the package is sent to Customer Service to request additional information from the lender.

An L2 is only required when the loan is recommended for charge off at the time of purchase, or if a repair or denial issue has been raised during the Legal 1 or Financial Review.

## How to Submit a Purchase Package

- There are several ways to send a package:
  - Paper format via the mail
  - Electronic on CD via the mail
  - Electronic via Send this File
- Electronic is the preferred method, and using Send This File is the most expeditious and reliable.
  - To get information on Send This File, visit our website or contact our IT specialist at [richard.geyer@sba.gov](mailto:richard.geyer@sba.gov)

# New Tabs Structure

**Regular 7(a) Guaranty Purchase Package Tabs** Print Form  
Version dated 10/2011

This page and the following Tab Pages were designed to help you assemble your guaranty purchase request package. The use of the following Tab Pages is mandatory for all guaranty purchase packages. Please read and follow instructions provided on each tab sheet. Failure to meet the requirements outlined in these instructions could result in unnecessary delays and/or possible return of the purchase package. If you are unable to provide required documents, please explain in advance to expedite processing. We recommend using bright colored paper or numerical dividers. Please ensure that all documents are clearly labeled, stapled or clipped, and presented in the order outlined on this page behind the appropriate tab.

Thank you for your cooperation!

For streamlined purchase of loans where SBA's share of the remaining balance is under \$10,000 and loan is not an early default, please go to Tab 10.

Click here to see if you're using the most current version of the [Tab Pages](#).

<b>Tab 1 - Demand Letter</b> <ul style="list-style-type: none"><li>Reason for Business Failure</li></ul>	<b>Tab 6 - Transcript of Account</b>
<b>Tab 2 - Loan Authorization</b>	<b>Tab 7 - Early Default</b> <ul style="list-style-type: none"><li>W-2 Income Tax Verification</li><li>Evidence of Equity/Asset Depreciation</li><li>Standby Agreement and Note</li><li>Credit Memorandum</li><li>Change of Ownership Information</li></ul>
<b>Tab 3 - Eligibility</b> <ul style="list-style-type: none"><li>PLP Loan Eligibility Checklist (2) LowDoc Loan Eligibility Checklist</li><li>Eligibility Statement for SBA Loan Program</li><li>Recovery Act Loans of 2009</li><li>Franchise Agreement</li></ul>	<b>Tab 8 - Reclassification of Business Personal Property Collateral</b>
<b>Tab 4 - Legal Documentation</b> <ul style="list-style-type: none"><li>Note</li><li>Guarantees</li><li>Security Agreements</li><li>UCC Lien Searches showing SBA's lien</li><li>Title Insurance and Recorded Deeds of Trust/Mortgages</li><li>Purchase/Sale Agreement</li><li>Legal Hearings</li><li>SOA or EIN for borrowers and guarantors</li><li>Statement of Personal History (Form 912)</li><li>FDC Bank Transfer</li></ul>	<b>Tab 9 - Collateral Disposition</b> <ul style="list-style-type: none"><li>Appraisal</li><li>Site Visit Report</li><li>Report of Sale or Release of Collateral</li><li>Liquidation Wrap-Up Report</li></ul>
<b>Tab 5 - Disbursements</b>	<b>Tab 10 - General Information</b> <ul style="list-style-type: none"><li>Wire Transfer Form</li><li>Environmental Questionnaire/Phase I and Phase II Environmental Report</li><li>Assumption Agreement, Compensation Agreement</li><li>Streamline Purchase</li><li>OPC Tab</li></ul>

Under 13 CFR 120.120(a), SBA is not obligated to purchase the guaranteed portion of a loan unless a Lender has submitted to SBA documentation that SBA deems sufficient to allow SBA to determine whether purchase of the guaranty is warranted. Additionally, under 13 CFR 120.120(b), a lender's failure to provide sufficient pre-purchase documentation may lead to an initiation of an action for recovery from the lender for monies paid by SBA to a registered holder on a guaranty. For these reasons, SBA has the right to request additional documentation other than the items listed on this index, and the Lender must comply with SBA's request.

U.S. Small Business Administration, National Guaranty Purchase Center, Herndon, Virginia 20170

- The cover sheet of the Tabs explains the process and outlines the categories to be addressed behind each tab.
- The documents are arranged in logical groups to facilitate package submission.
- The Tabs are available on the SBA website as a fill-able PDF with links to all mandatory and suggested forms and all documents needed in the purchase review process are located at

<http://www.sba.gov/for-lenders>

# Tab 1- Making Demand

**Demand that SBA Honor Its Guaranty** 1

**Required**

**Demand Letter**  
 In order for SBA to process the guaranty purchase request, the lender must use the preformatted **Demand Letter**, signed by an officer of the lending institution.

If the purchase has already occurred and you are submitting a post purchase package, no demand letter is required. Simply check this box.  Post Purchase Package

Contact Name: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

- **Prior to Submitting Purchase Request**, the Lender must contact the appropriate SBA Servicing Center to request that the loan be placed in liquidation status and transferred to the National Guaranty Purchase Center (NGPC).
- **Please attach a memo explaining the reason for the business failure and/or the loan default.**
- The **LowDoc Program** requires lender to liquidate business personal property prior to requesting guaranty purchase, unless in litigation or borrower bankruptcy.

For ALL loans approved on or after **May 14, 2007**, the lender must liquidate all business personal property prior to requesting guaranty purchase unless the borrower has filed for bankruptcy or the loan has been sold in the secondary market and the lender has declined to purchase.

**Has business personal property been liquidated?**

Yes  No *If No, please attach an explanation.*

- The regulations require that a demand for purchase be submitted within 180 days of maturity of the loan or within 180 days of the completion of liquidation or debt collection litigation in connection with a matured loan. Please check the maturity date of this loan to ensure that the loan is within these guidelines since SBA will be released from its guarantee if it is not. If the maturity occurred more than 180 days ago, please provide a written explanation why demand was not made.
- Is this a **Streamlined Purchase** (SBA's share of the remaining balance is under \$10,000)? *Not Applicable if the loan is an early default.*

Yes  No *If Yes, please refer to Tab 10 G* 1

**Demand that SBA Honor Its Guaranty**

**Request to Honor SBA 7(a) Loan Guaranty**

Date: \_\_\_\_\_  
 Loan Number: \_\_\_\_\_ Loan Name: \_\_\_\_\_

Lender Contact Person \_\_\_\_\_  Lender Phone number \_\_\_\_\_  
 Lender Street Address \_\_\_\_\_  Lender Email \_\_\_\_\_  
 Lender City, State, Zip \_\_\_\_\_  Lender Fax Number \_\_\_\_\_

Enclosed you will find the required documents in support of the following:

- Pre-Purchase**  
 Request that SBA purchase the guaranteed portion directly from our institution as this loan has not been sold in the secondary market, or our institution has purchased the sold portion from the secondary market holder and is now making request for purchase directly to SBA. *If lender has purchased the sold portion, please make sure SBA's Fiscal Transfer Agent's records reflect a paid status prior to submitting your request for purchase to SBA.*
- Secondary Market Purchase with Post Purchase Package**  
 Request that SBA purchase the guaranteed portion of a loan that has been sold in the secondary market, and our institution will not purchase. This request includes a complete post purchase review package.
- Secondary Market Purchase**  
 Request that SBA purchase the guaranteed portion on a loan that has been sold in the secondary market, and our institution will not purchase. This request does not include a post purchase review package. The post purchase review package will be provided under separate cover within 15 business days of SBA's purchase of the guaranteed portion of the loan.

I,  Officer of the bank, Title \_\_\_\_\_, hereby certify, represent and warrant on behalf of  Lender that all information and documentation submitted to the U.S. Small Business Administration in connection with this purchase request and/or post purchase review package is accurate, genuine and complete and contains true copies of  Lender's records for this loan. I further certify that I have personally reviewed and confirmed, based upon  Lender's records, the copy of  Lender's Transcript of Account with respect to this loan provided herewith and that to the best of my knowledge and belief the information contained therein is true and accurate. I also certify to the best of my knowledge and belief that  Lender has materially complied with the SBA Loan Program Requirements (as defined in 13 CFR 120.10) applicable to this loan.

By signing below, I represent and warrant that I have the proper authority to execute this document on behalf of  Lender.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

- Please read Tab 1 carefully and answer the questions
- LowDoc loans must be fully liquidated prior to requesting purchase.
- Loan approved on or after May 14, 2007, must have all business personal property liquidated prior to guaranty purchase. In special circumstances, SBA will discuss with the lender if this can be waived, based on the situation.
- Cause of Business Failure Memo is required on ALL loans.
- The mandatory Demand Letter can be used for pre-purchase demands as well as secondary market purchase demands and post purchase reviews.
- Please be sure you check the correct box to ensure proper routing in the Center.
- Global certification feature designed to decrease follow-up signature requests to lenders. Please be sure that an authorized bank representative signs the letter.

# Tab 2 – Loan Authorization

Executed Loan Authorization and Any Amendments

2

## Required

### Loan Authorization

The [Loan Authorization](#) is the most important document in your purchase package request. The Loan Authorization and any amendments contain the terms and conditions the lender **must meet** in order to validate the SBA Guaranty. Please include copies.

Please refer to the Loan Authorization and the instructions on each tab to determine which documents are required for submission.

### Companion Loans

Includes SBA Guaranteed **and** non-SBA Guaranteed Loans originated by the same lender to the same borrower.

Does the loan for which you are requesting purchase have a companion loan(s)?

Yes  No

*If Yes, please include copies of the SBA Loan Authorization(s).*

Write the loan number(s) in the spaces provided below:

SBA Companion Loan Number	<input type="text"/>
SBA Companion Loan Number	<input type="text"/>
Non-SBA Companion Loan Number	<input type="text"/>
Non-SBA Companion Loan Number	<input type="text"/>

For 7(a) Recovery Act loans, approved by SBA on or after 2/17/2009, Lenders must ensure that the Loan Authorization includes additional documentation requirements, restrictions and mandatory certifications outlined in the law (P.L. 111-5). Specifically, the required language pertaining to compliance with Immigration laws and borrower certification of hiring practices for loans made under Section 502 of the Recovery Act of 2009; and, allowable uses of Recovery Act funds for loans made under Sections 501 and 502 of the Recovery Act of 2009.

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Executed Loan Authorization and Any Amendments

- The most important, required document in the guaranty purchase process is the **Loan Authorization** AND any Amendments
- Read this document carefully, as it will dictate what documents will need to be provided later
- At this stage pay particular attention to collateral taken, use of proceeds, lien positions, and guarantors as they will be critical on later tabs
- Include **ANY** loan modification documents as well as deferments, workout agreements, interest rate adjustments, and payment revisions. Center staff only need to know that they occurred and were properly executed. SBA generally will not question prudent decisions by the lender if they are documented and executed properly.
- Please be sure to include information on companion loans.
- See NOTE on Recovery Act Loans

# Tab 3 - Eligibility Requirements

Moving Forward with  
Excellence

## Required Eligibility 3

A. Type of Business: \_\_\_\_\_

- Start-up     Existing Business     Change of Ownership

B. Select the Special Program under which the loan was originated (select all that apply):

- PLP                       LowDoc  
 CLP                       7(a) Recovery Act  
 STAR Loan               CAPLine  
 Dealer Floor Plan       GP  
 EWCP                     International Trade

Evidence of eligibility **must** be provided as follows:

- For **PLP loans**, provide the [PLP Loan Eligibility Checklist](#) and any supporting documentation used in the eligibility determination.
- For **LowDoc loans**, provide the SBA LowDoc Eligibility Checklist and any supporting documentation.
- For **7(a) Recovery Act loans of 2009** with an Increased guaranty, submit Borrower and/or Operating Company certifications of compliance with Immigration laws and hiring practices prior to loan disbursement. (Section 502(c)(2) of the Recovery Act of 2009, P.L. 111-5). This certification is mandatory and is in addition to the existing disclosure requirement on SBA Form 912 Statement of Personal History.  
  
Also include applicable eligibility questionnaires and checklists certifying that no proceeds will be used for a restricted purpose such as a Casino, other gambling establishment, aquarium, zoo, golf course, or swimming pool).
- For **STAR Loans**, provide eligibility statement or explain its absence.

C. Was the business required to execute a franchise/license/dealer/jobber or similar agreement?     Yes     No

If Yes, was the franchise/license/dealer/jobber or similar agreement on the Franchise Registry?     Yes     No

*If Yes, please provide the Certification of No-Material Change or Certification of Franchise Documents.*

*If No, please provide an executed copy of the franchise/license/dealer/jobber or similar agreement and any addendums.*

D. Did the business sell fuel/gasoline?     Yes     No

*If Yes, provide fuel supply agreement or jobber agreement.*

Eligibility

3

3

•Making an ineligible loan will result in a full denial.

•The type of business dictates the documentation that will be required.

•Please provide all required eligibility checklists.

•If the loan was made to a franchise or dealership, it must be on the franchise registry. If not, you must provide a copy of the franchise agreement to ensure it was an eligible franchise. If it is on the registry, please provide a certificate of no change.

•If the business sold fuel or gasoline, you must provide a copy of the fuel supply or jobber agreement.

•If the loan is Recovery Act, you will place your eligibility certifications behind this tab.

# Tab 4 – Legal Documentation

Legal Documentation **4**

**Required**

**A. Note (SBA Form 147)** is mandatory for all loans. You must also submit copies of any Note Modifications, Amendments, Deferments, and Workout Agreements to include all revised repayment terms including dates, interest rate adjustments, and payment revisions.  
For Secondary Market loans, lender must provide evidence of investor's approval of modifications, as applicable.

**B. Legal Documents** Provide all that are applicable and see corresponding definitions. If applicable but not provided, please explain.

- Guaranties (SBA Form 148)
- Security Agreement (Use of SBA Form 1059 is optional)
- UCC Lien Search

Date of Post Default UCC Search:

- Title Insurance and Recorded Deeds of Trust/Mortgages
- Purchase/Sale Agreement
- Legal Pleadings & Schedules, Bankruptcy Filings, and Court Motions
- Other (e.g. Certificate of Ownership and/or Certificate of Title of Vehicles or Manufactured Homes, Assignment of CDs or Stock, Assignment of Life Insurance, Landlord's Subordination, Lease Agreement).

**C. Social Security or EIN - Required** for each Borrower/Guarantor

Borrower/Guarantor	<input style="width: 90%; height: 20px;" type="text"/>	SSN/EIN	<input style="width: 90%; height: 20px;" type="text"/>
Borrower/Guarantor	<input style="width: 90%; height: 20px;" type="text"/>	SSN/EIN	<input style="width: 90%; height: 20px;" type="text"/>
Borrower/Guarantor	<input style="width: 90%; height: 20px;" type="text"/>	SSN/EIN	<input style="width: 90%; height: 20px;" type="text"/>

**D. Statement of Personal History (Form 912) - Required** for all loans  Yes  No

**E. Was this loan part of a whole bank transfer from FDIC?**

If Yes, did the bank enter into a Loss/Sale Agreement with FDIC?  Yes  No

**4**  
Legal Documentation

•Tab 4 outlines the documentation required for the majority of the Legal Review.

•We must receive a copy of the original Note along with any modifications, amendments, deferments, and workout agreements so that the reviewer can determine the original and current terms of the loan.

•Guaranties – a guaranty is required when participation in the business is 20% or more.

•Security Agreements

•UCC Lien Searches – you must be able to prove to SBA with a post-default lien position that you secured the correct position. This is one of the major causes for repairs

- **Title Insurance and/or recorded Deeds of Trust/Mortgages are mandatory where real property collateral is required. We use it to determine if the lien position is correct.**
- **The purchase/sale agreement provided must be executed and final.**
- **The SBA Form 912 is required for ALL purchase requests.**
- **Review your Loan Authorization when completing this tab.**
- **For ALL loans closed/disbursed on or after 10/01/12, the Lender is required to provide the CAIVRS report for all SSNs and TINs from loan origination.**



# Tab 5 – Use of Proceeds/Disbursements

Settlement Sheets (SBA Form 1050) **5**  
Required

**Disbursements**

A key element in the process is reviewing each disbursement to determine that loan proceeds were used in accordance with the Loan Authorization and for eligible business purposes. For loans made on or after 8/1/08, only one settlement sheet is required; however, documentary evidence is required for all disbursements. For loans made prior to 8/1/08, all settlement sheets must be included with evidence.

**Documentary evidence**

Copies of the cleared joint payee checks, Paid Invoices, and Final & Executed Bills of Sale as applicable for each disbursement must be itemized. Include totals for each disbursement category.

Did loan proceeds payoff lender's interim loan?  Yes  No

*If Yes, please provide a copy of the interim loan's Note and evidence of use of proceeds.*

Did any of the loan proceeds (other than working capital) go directly to the borrower?  Yes  No

*If Yes, please provide supporting documents verifying these funds were used according to the Loan Authorization (copies of checks, paid invoices, receipts, etc).*

**\*\*Supporting documentation must be itemized and organized\*\***

**If Debt Refinance, Please Provide:**

- Debt Schedule (Please provide copies of notes and/or payoff statements)
- Borrower's Certification that credit card debt being refinanced was incurred exclusively for business purposes. (See SOP 50 10 in effect at the time of origination)

**7(a) Recovery Act Loans of 2009**

Was working capital financed with loan proceeds?  Yes  No

If Yes, provide certification executed, prior to disbursement, by the Borrower and/or Operating Company, certifying that no funds obtained from the working capital loan would be used for restricted purposes.

Was this loan funded with Recovery Act Funds for a Project with Restricted Uses?  Yes  No

If Yes, (a) provide Credit Memorandum (even if the loan is not an early default) documenting that use of proceeds does not include financing restricted uses, and document the other resources that cover the financing component of restricted uses; and, (b) provide Borrower and/or Operating Company certification, prior to first disbursement, that alternate funding proceeds have been obtained to finance restricted uses of the project.

Settlement Sheets (SBA Form 1050) **5**

•SBA reviews the Settlement Sheets for several reasons:

- Ensure loan was properly disbursed,
- Ensure proceeds were used in accordance with the Loan Authorization, and
- Ensure proceeds were used for eligible purposes

•You must provide SBA with evidence to support these reasons

•Evidence can include copies of cleared checks, paid invoices, bills of sale, or executed contracts

•Documentary evidence is always required for each disbursement. For loans made on or after 8/1/2008, only one settlement sheet is required for the initial disbursement.

## Tab 5 – Use of Proceeds/Disbursements

- **Avoid issues by never disbursing directly to the borrower. Use joint payee checks or pay the vendors directly. W/C funds cannot be disbursed to an EPC.**
- **When the purpose of the loan is to refinance existing debt, be sure to have evidence that the existing debt was originally incurred for eligible business purposes.**
- **For Recovery Act Loans be sure you have the borrower certification for working capital proceeds, and that no proceeds were used for ineligible purposes as outlined in the Act.**
- **If the proceeds are to payoff an interim loan be sure to include the internal credit approval and evidence of use of proceeds for that loan.**

# Tab 6 - Transcript of Account

Certified Transcript of Account

6

### Required

#### Transcript

The certified transcript of account is a document which accounts for the disbursement of loan proceeds and applications of payments.

[SBA Form 1149](#) is the Agency's preferred Transcript of Account Form. All transcripts of account, including the SBA Form 1149 must contain the following:

1. SBA loan name and 10 Digit loan number.
2. Method used for interest computation (360 day or 365 day). SBA calculates interest based on 365 days.
3. Date and amount of each disbursement.
4. Date and amount of each payment showing principal and interest applications.
5. **Show interest *From* and *To* dates for each payment application.**
6. Date interest rate changes occurred.
7. **Next payment due date (defined as the "default date") (Add to SBA Form 1149.)**
8. If applicable, the amount of lender's successful bid at foreclosure sale (reflected on the transcript as a credit to the principal balance).
9. Record of all recoveries and expenses - legal fees will be paid separately, if approved.
10. **Indicate all deferments. (Add to SBA Form 1149)**
  - a. Dates.
  - b. Principal and Interest or Interest Only.
11. Note source of funds if payment was applied to the principal.
12. Indicate if your ending balance agrees with your 1502 report.

**Note:** With the exception of loans purchased from the secondary market by SBA, lenders may deduct 120 days of interest from liquidation proceeds which then should be shown on the transcript of account.

**Note:** For loans sold into the secondary market after January 31, 2011, SBA will only pay 120 days of interest. Any interest above 120 days paid to the investor will be billed to the lender.

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Certified Transcript of Account

- SBA encourages the use of SBA Form 1149
- If the Lenders choose not to use the 1149, the transcript **MUST** contain all of the of the information required on the Form 1149
- It is critical to note the next payment due date
- Also critical to indicate any/all deferments or loan modifications
- Use the SBA loan number, not the lender's loan number
- Enter ALL payments and provide interest paid "from" and "to" dates
- Show interest rate adjustments according to the Note terms
- Do not charge off the guaranteed portion until the guaranty is purchased
- Interest cannot be paid in advance
- Payments should be applied in accordance with the terms of the Note. For loans in liquidation, payments should be applied to principal only absent an executed workout or forbearance agreement.



# Tab 7 - Early Default Requirements Definition of Early Default

Early Default **7**

**Early Default Definition**

A loan is considered Early Default when the default occurred within 18 months of the initial disbursement of the proceeds from an SBA Loan . If the final disbursement occurred more than 6 months after the initial disbursement, the 18-month period will begin to run from the date of the final disbursement.

If the Borrower cures the default and makes scheduled loan payments for 12 consecutive months after the initial 18-month period (30 months), it is not considered early default.

The following events of default would constitute an Early Default if they occurred within the specified 18-month period:

- An unremedied failure by the Borrower to make one or more scheduled loan payments
- Funding scheduled loan payments from the sale of collateral rather than from business operations
- Deferment of more than 3 consecutive scheduled full payments
- A problem or event requiring the loan to be classified in liquidation status such as the filing of a bankruptcy petition

Is this loan an early default based on the above definition?

Yes     No    *If No, disregard this tab.*

Enter Date of Default:

Is this a PLP loan?     Yes     No

Was equity injection required?     Yes     No

Was Standby Agreement required as part of borrower's equity injection?     Yes     No

Is there a Note as a result of the Standby Agreement?     Yes     No  
*(If yes, please include a copy of the Note)*

Continued on Next Page

Early Default

**7**

- Definition: An Early Default occurs when a loan defaults within 18 months from initial disbursement
- A loan with Early Loan Problems will be treated as an Early Default.
- Early Loan Problems exists when the following occurs:
  - An un-remedied failure by the borrower to make one or more scheduled loan payments
  - Funding scheduled loan payments from the sale of collateral
  - A deferment of more than 3 consecutive scheduled full payments
  - Classifying the loan in liquidation status within the 18-month period
- High Dollar Early Defaults are a high focus area

## Tab 7 - Early Default Requirements Equity Injection

- **Pay particular attention to equity/asset injections, if required.**
  - **Injection is supposed to occur prior to disbursement. If it occurs on or after disbursement the lender must clearly show that the injection did not come from loan proceeds**
  - **Lenders can verify the injection with:**
    - **Credit card receipts indicating items purchased for the business**
    - **Paid invoices with vendor receipts or cancelled checks**
    - **Copies of processed checks payable to the business and business bank statement showing the funds deposited**
    - **Borrower bank statement that shows beginning and ending balances prior to loan disbursement, dated within 2 months of disbursement.**
    - **Settlement Sheet or closing agent's settlement statement dated and signed by borrower and closing agent.**
  - **If loan was approved 09/06/05-10/01/10, SOURCE OF INJECTION is required if injection amount is greater than 1/3 of the loan amount or \$200,000 (whichever is less). If loan was approved AFTER 10/01/10, source of injection is required on ALL early default loans.**
  - **Standby Agreement should be provided if required.**

## Tab 7 - Early Default Requirements IRS Verification and Credit Memo

- **IRS Income Tax Verification**
  - **The lender must provide copies of the IRS tax transcripts and the financial statements and/or other financial information that was used in the credit analysis during the loan origination process. After comparison against the tax transcripts, any discrepancies must be addressed by the Lender.**
  - **If the business is a start-up, this is not required.**
  - **If you don't have evidence that the IRS transcripts were verified against the financial statements, please provide an explanation as to what was used to verify the income of the borrower.**
  - **If an existing business and repayment is based on projections, IRS verification is required to verify the borrower is filing taxes (character issue).**
- **A copy of the Credit Memorandum**
  - **SBA reviews the credit memo and supporting documents to ensure that the lender has acted prudently.**
  - **Cash flow and repayment ability will be examined in the credit memo to ensure that the lender fully considered the risk involved in making the loan.**
  - **If projections are being used, must be reasonable, justified, etc. (i.e. compared to RMA/industry standards).**

# Tab 8 and 9 - Collateral Tabs

Reconciliation of Business Personal Property Collateral
8

Is this documentation required based on your Loan Authorization?

Yes     No    *If No, disregard this tab.*

If Yes, be sure to include reconciliation documentation as described below.

If required by Loan Authorization but not provided, please attach an explanation.

The lender must **itemize** all original collateral with unit value of \$5,000 or more specified in the Loan Authorization. Lender must include a brief description and, when applicable, a serial number.

**Lender must** provide proof of perfection of a required security interest on motor vehicles or manufactured homes, if applicable. The lender must provide copies of certificate of ownership and/or titles on any vehicles, with their lien recorded on it.

**THE LENDER MUST THEN RECONCILE THE ORIGINAL LIST OF COLLATERAL AGAINST AN UPDATED LIST OF COLLATERAL ITEMS OBTAINED FROM THE POST-DEFAULT SITE VISIT OR APPRAISAL. ANY DISCREPANCIES BETWEEN THESE TWO LISTS MUST BE EXPLAINED.**

Reconciliation of Business Personal Property Collateral
8

Collateral Disposition

- Lenders **MUST** itemize all collateral with a unit value of \$5,000 or more.
- Lenders **MUST** reconcile all original collateral against list of post-default collateral
- If required, you must provide appraisals from origination and post default (at liquidation)
- Post default appraisal should be less than 120 days old and never more than 1 year old
- Provide Report of Sale of collateral or other disposition activity
- Abandonment of collateral **MUST** be justified and documented



- Lender **MUST** show evidence of attempts to secure and safeguard collateral post-default and provide a post-default Site Visit Report
- Site Visit must be done within 60 days of uncured payment default or 15 days of adverse event
- Lenders **MUST** notify SBA if they will continue collections/servicing actions-otherwise Treasury will continue collections against all guarantors.
- The majority of repairs come from mishandling of collateral.
  - Failure to do a timely site visit
  - Failure to perfect lien position
  - Repair is only done if there is monetary harm to Agency as a result.
- Wrap-up Report or Status of Liquidation to Date

## General Information 10

Please mark the documents you are providing in this Tab:

### Required:

Wire Transfer Form

### As Required by Loan Authorization:

Environmental Questionnaire

Phase I and / or Phase II Environmental Report

*If required by Loan Authorization but not provided, please explain.*

### Required Documentation (As Applicable):

Assumption Agreement(s)

Compensation Agreement and breakdown

Source of Equity Injection

Streamlined Purchase (see F. of this tab for requirements)

CPC Tabs

Please follow instructions on the following pages to determine submission requirements.

### **For 7(a) Recovery Act Loans of 2009**

Did the Lender receive fee refunds from SBA on eligible 7(a) loans approved by SBA on or after February 17, 2009 and before March 16, 2009?

Yes  No

If Yes, Lender must provide documentation showing borrower's receipt of the refund. (See SBA Policy Notice 5000-1097, effective March 16, 2009)

Continued on Next Page

General Information

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- Wire Transfer Form is required to ensure prompt and correct payment
- This Tab should include any other documents relevant for guaranty purchase review or required by the loan authorization
- Phase 1 and/or 2 Environmental Reports must be included if applicable
- Care and Preservation of Collateral and Legal Expense Reimbursements
  - If requesting expense reimbursement and the loan is ready for charge off, please certify that no further expenses will be claimed.

## Materiality

- **NGPC focuses on ‘material’ deficiencies that cause a significant loss or harm to SBA, or are a matter of program integrity**
- **Origination and Closing Actions**
  - **Examples: Eligibility and franchise issues, Lack of equity injection (early defaults), missing IRS verification (early defaults), lack of evidence of disbursements**
- **Servicing Actions**
  - **Examples: Improper subordinations, unjustified release of collateral or guarantors, lapse of liens, and Lender preference issues**
- **Liquidation Actions**
  - **Lack of timely site visits after default or adverse event which causes a loss to the Agency**
  - **Lack of comprehensive inventory at time of site visit which causes a loss to the Agency**
  - **Failure to maximize recovery (deficient pursuit of collateral or obligors)**

**Burden of Proof** – the burden of proof is always on the lender to prove that the deficiency is not material and did not cause the failure of the business

- **Lien and Collateral Issues that Result in Missed Recoveries (Generally a Repair)**
  - Failure to obtain required lien position
  - Failure to properly perfect security interest
  - Failure to fully collateralize loan at origination when additional collateral was available (in rare cases)
- **Unauthorized Use of Proceeds**
  - Proceeds disbursed for purpose(s) inconsistent with the loan authorization or subsequent modifications without a business justification. (Could be a Denial if early default and improper use of proceeds caused the failure of the business)

- **Liquidation Deficiencies (Generally a Repair unless harm is the full value of the outstanding balance)**
  - Failure to conduct Site Visit which resulted in missed recoveries
  - Improper safeguarding or disposition of collateral which resulted in missed recoveries
  - Misapplication of recoveries to lender's loan when SBA-guaranteed loan has lien priority
- **Undocumented Servicing Actions (Generally a Repair)**
  - Liens not properly renewed during servicing on worthwhile collateral
  - Release or subordination of collateral without documented business justification
  - Allowing hazard insurance to lapse on major collateral and collateral was subsequently destroyed
  - Failure to maintain life insurance on principal and principal subsequently dies

- **Early Defaults (Denial if determined to be reason for business failure)**
  - Missing or unsupported verification of required equity injection (includes verification of source in some cases)
  - Missing or unsupported documentation of verification of borrower financial information with IRS when financial information was relied on in lender's credit analysis
  - Repayment analysis is not adequately justified.
  - Lack of Business Valuation (business purchase) or asset appraisal (asset purchase).
- **SBA Loan Eligibility (Denial)**
  - Ineligible franchise
  - Ineligible loan purpose
  - Ineligible loan recipient (loan to an associate of lender)

Because the 10-Tab system was so successful for the purchase process we have developed additional tab systems for the following functions:

- Care and Preservation of Collateral and Legal Expense Reimbursements
- Offer in Compromises
- Litigation Plans
- Charge Off/Wrap Up Reports

# Unilateral Action Matrix

**SBA** Servicing and Liquidation Actions  
 7(a) Lender Matrix

*Please see Footnotes at end of document. All lender actions must comply with loan program requirements.*

	Use E-Trans	Unilateral Actions Notify SBA?		Requires prior SBA Approval	Form 2237 <sup>15</sup>
		Yes	No		
<b>Approved Loans Prior to Initial Disbursement - See SOP 58 18 &amp; Subject B</b>					
Increase / decrease loan amount or guaranty percentage				X	X
Change initial disbursement date		X			
Change maturity date	X	X			X
Change interest rate <sup>1</sup>				Not permitted	
<b>Other changes to loan authorization:</b>					
Loan submitted and approved under delegated authority <sup>2</sup>			X		
Loan approved by the Standard 7(a) Loan Guaranty Processing Center				X	
Change EIN or SSN		X			
Change borrower's address or legal/trade name of business	X	X			X
Cancel loan	X	X			X
<b>Actions after Initial Disbursement - Loans in Servicing or Liquidation Status</b>					
<i>See SOP 58 58, SOP 58 51 and 15 CFR 120.535 and 120.536</i>					
Increase / decrease SBA's guaranty percentage				X	
Confir preference <sup>3</sup> on lender or engage in activity that creates conflict of interest				X	
Release borrower or guarantor				X	
Comprotime principal balance owed <sup>4</sup>				X	
Assumption of loan with release of original borrower / guarantor				X	
Take title to any property in the name of SBA				X	
Take title to environmentally contaminated property, or take over operation and control of a business that handles hazardous substances or hazardous wastes				X	
Emergency purchase from secondary market				X	
Determination of involuntary prepayment / subsidy recoupment fee				X	
Reinstatement of SBA guaranty				X	
Increase loan amount				X	X
Transfer or sell more than 90% of a loan				X	
Transfer or sell 90% or less of a loan		X			
Decrease loan amount		X			X
Extend final disbursement date		X			X
Cancellation of SBA guaranty before guaranty purchase		X			
Extend maturity (action done prior to stated maturity) <sup>5,6</sup>	X	X			X
Reamortize / restructure loan <sup>7</sup>		X			
Change interest rate within loan program guidelines <sup>1,8</sup>		X			
Change EIN or SSN		X			
Change borrower's address or legal/trade name of business	X	X			X
Transfer loan into liquidation status		X			
Return loan to regular servicing status		X			
Change a loan to PIF status		X			
Assumption of loan without release of original borrower / guarantor		X			
Change loan from revolver to non-revolver	X	X			

Version 5: 1/29/10  
 \*Please check the SBA Website for the most up to date version.

•The two servicing centers and NGPC collaborated to create the Unilateral Action Matrix.

•This document is designed to assist the lenders in understanding what actions require SBA approval, SBA notification, and are unilateral.

•During the purchase process we are concerned with materiality and harm. As long as the actions you take are documented, prudent, and don't cause harm to the Agency, the Center will generally not be concerned with them at the time of purchase.



- Lenders are responsible for keeping SBA informed of liquidation activities after purchase by submitting a status report semi annually.
- Semi Annual Status Reports can be brief. We just need to know if the loan can be charged off, and if not why? Liquidation? Litigation? Bankruptcy?
- Send Reports to [sbachargeoff@sba.gov](mailto:sbachargeoff@sba.gov) or mail to NGPC.

# Wrap-Up Reports

- When you are satisfied that all collection efforts have been exhausted and liquidation is complete, you must notify the Center immediately so that we can charge-off the loan.
- Our goal is to charge-off a loan as soon as it is ready. We rely on our Lending Partners to keep us informed of the status of each of their loans.
- When you believe a loan is ready for charge-off, please prepare and submit a final wrap-up report to [sbachargeoff@sba.gov](mailto:sbachargeoff@sba.gov) or mail it to NGPC.
- New Charge Off Tabs are available online. Please use these tabs to prepare your wrap-up report.
- NOTE: Per the SOP 50 57 2, effective 12/01/15, the Assignment Form is required on all loans that are ready for charge off, with referrals to Treasury. The form can be found on our website.

## Center Management

- Vanessa Piccioni, Director
- Neil Miller, Deputy Director
- Debbie Lester, Assistant Director for Portfolio Resolution
- Kevin Hardy, Assistant Director for Center Operations Division

## How to Contact Us

### **National Guaranty Purchase Center**

**1145 Herndon Parkway**

**Herndon, VA 20170**

**Phone: 703-487-9283**

**Toll Free: 877-488-4364**

**Fax: 703-487-9944**

**Center Hours: Monday-Friday, 8:00 am to 4:30 pm, Eastern Time**

### **Email Inquiries:**

**[loanresolution@sba.gov](mailto:loanresolution@sba.gov) – general questions**

**[secondarymarketliq@sba.gov](mailto:secondarymarketliq@sba.gov) – secondary market questions**

**[sbapurchase@sba.gov](mailto:sbapurchase@sba.gov) - status of purchase questions**

**[sbachargeoff@sba.gov](mailto:sbachargeoff@sba.gov) – semi annual status reports and wrap-up reports**

**Website – [www.sba.gov/HerndonNGPC](http://www.sba.gov/HerndonNGPC)**

# Questions



# Contact Information

Moving Forward with  
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Rick Haney  
304-623-7449

[Richard.haney@sba.gov](mailto:Richard.haney@sba.gov)

Leo Lopez  
304-347-5220

[Leo.lopez@sba.gov](mailto:Leo.lopez@sba.gov)

Or contact your local Lender Relations  
Specialist – [www.sba.gov](http://www.sba.gov)

# Upcoming Webinars

Moving Forward with  
Excellence

- Feb. 21 @ 1 p.m. – Franchise Overview
- Feb. 28 @ 11 a.m. – Benefits of SBA Lending
- Visit our [Lender Training Website](https://www.sba.gov/offices/district/wv/clarksburg/resources/west-virginia-lender-resources-training) at: <https://www.sba.gov/offices/district/wv/clarksburg/resources/west-virginia-lender-resources-training> to register and for more trainings