The Guaranty Purchase and Liquidation Processes for 7(a) Loans at the National Guaranty Purchase Center

www.sba.gov/banking
National Guaranty Purchase Center (NGPC) in Herndon, VA

- Ten Tab Submissions & Changes
- Pillars of the Purchase Request Review
- Common Reasons for Repairs and Denials
- CPC Tabs
- OIC Tabs
- Unilateral Action Matrix
- Quarterly Status and Wrap-Up Reports
Center Management

• Vanessa Piccioni, Director
• Dana Relyea, Deputy Director
• Grace Gatell, Center Counsel
• Debbie Lester, Assistant Director for 7(a) Purchases
• Neil Miller, Assistant Director for Portfolio Resolution
• Kevin Hardy, Assistant Director for Center Operations Div.
• John A. Miller, Director, Financial Program Operations
  (responsible for overseeing all 9 loan operations centers)
NGPC’s Brand Promise

GOAL:
To Meet or Beat the Guaranty Purchase Brand Promise to Lenders and Respond to all Liquidation Requests in a Timely Fashion

KEY SUCCESSES:

- Have delivered 45-day turnaround on all incoming “Reviewable” Purchase Packages accepted under the brand promise since November 1, 2007.

- Created a Center/Field Customer Service Model that facilitates the submission of “reviewable” purchase packages, assists in resolving purchase request issues, and monitors lender servicing satisfaction.

- Developed a Standard, Auditable, Purchase Review Process which includes the 10-Tab purchase package, Purchase Operations Manual, and automated recommendation process.
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.

8/14/2012
Helpful Purchase Tips

• Provide a complete package with executed tabs to ensure quick processing. Include all required documents and answer all questions on tabs.

• 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!  www.sba.gov/for-lenders
• 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
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 [www.sba.gov/for-lenders](http://www.sba.gov/for-lenders).
• Please be sure to read Tab 1 carefully and answer the questions presented.

• 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.
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.
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 new **NOTE** on Recovery Act Loans.
### Tab 3 - Eligibility Requirements

#### Required

<table>
<thead>
<tr>
<th>A. Type of Business:</th>
<th>Eligibility</th>
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<tbody>
<tr>
<td>□ Start-up</td>
<td>□ Existing Business</td>
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<th>B. Select the Special Program under which the loan was originated (select all that apply):</th>
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<tr>
<td>□ PLP</td>
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<tr>
<td>□ CLP</td>
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<tr>
<td>□ STAR Loan</td>
</tr>
<tr>
<td>□ Dealer Floor Plan</td>
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<tr>
<td>□ EWCP</td>
</tr>
</tbody>
</table>

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.

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- **Please provide required eligibility checklist.**

- **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.**

- **Please note the additional requirements for Recovery Act Loans**
Tab 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 or amendments.
- Other required documents if applicable are:
  - Guaranties
  - Security Agreements
  - UCC Lien Searches
  - Title Insurance
  - Purchase/Sale Agreements
- Review your Loan Authorization when completing this tab.
The analysis of the Settlement Sheets have several facets:

- 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 facets

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

Please note the new language added for Recovery Act Loans.
Certified Transcript of Account

SBA Form 1149

If the Lenders choose not to use the 1149, the transcript MUST contain all 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 SBA loan number, not lender’s number

Enter ALL payments and provide interest paid “from” and “to” dates

Show interest rate adjustments according to Note terms

Do not charge off the guaranteed portion until the guaranty is purchased
Tab 6 - Transcript of Account

SBA From 1149

<table>
<thead>
<tr>
<th>Date</th>
<th>Amount Due</th>
<th>Amount Paid</th>
<th>Application of Payment</th>
<th>Interest Rate</th>
<th>Interest Paid</th>
<th>Principal Paid</th>
<th>Principal Balance</th>
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Repayment Terms as Stated in the Note

I certify this to be a true copy of transcript of account.

Signature: ____________________________
Date: __________

Visit us at www.sba.gov
Definition: See tab number 7 for Early Default Definition

- Early Defaults are a high focus area
- Pay particular attention to equity/asset injections, if required
- Please note the requirement for a Credit Memorandum and documentation for Early Defaulted PLP loans
- IRS Income Tax Verification is also required
- Early loan problems occur when the borrower funds monthly payments through sale of collateral, or the lender deferred more than 3 consecutive payments. These are treated as Early Defaults (complete Tab 7)
Tab 8 and 9 - Collateral Tabs

- 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.
- Lender MUST show evidence of attempts to secure and safeguard collateral post-default and provide a post-default Site Visit Report.
- Provide Report of Sale of collateral or other disposition activity.
- Wrap-up Report or Status of Liquidation to Date.
- Abandonment of collateral MUST be justified and documented.
- Lenders MUST notify SBA if they will continue collections/servicing actions—otherwise Treasury will continue collections against all guarantors.
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

Please note new requirement for fee refund verification on Recovery Act Loans
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.
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.
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)
Top Reasons for Repair and Denial

• 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

• 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)
  – Same lender Non-SBA loan paid with PLP loan proceeds (preference)
Top Reasons for Repair and Denial

- **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
Top Reasons for Repair and Denial

• 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

• SBA Loan Eligibility (Denial)
  – Ineligible franchise
  – Ineligible loan purpose
  – Ineligible loan recipient (loan to an associate of lender)
Secondary Market

- Loans are purchased out of the secondary market two ways:
  - Investor requests – loan is more than 60 days past due
  - SBA initiated – SBA decides it is in everyone’s best interest to buy it
- SBA is required to purchase the loan 10 business days after demand
- At the time of purchase, SBA needs a current lender transcript which it reconciles with the FTA (Colson) transcript to ensure a proper transaction.
- After the purchase, the lender must provide a post purchase package to SBA within the timeframe prescribed in the letters provided to the lenders (maximum – 45 days)
- SBA performs the same review as a pre-purchase, however the review is done after the purchase, because there is not ample time to do it before
- Once the loan is purchased from the secondary market, the lender is responsible for remitting our portion of the recoveries to SBA using the SBA 172 – pay.gov process
We recently created a new tab system for lenders to submit requests for CPC and Legal Expense reimbursement.

These tabs are similar to the 10-Tabs for the purchase process, in that they guide you through what we need and why, to ensure proper submission the first time.

They can be used to submit reimbursement requests at the time of purchase or anytime after.

The new tabs are available at www.sba.gov/for-lenders in the forms library and under the liquidation section of the NGPC website.
• The Center has developed another Tab system for the lenders to use to prepare and send in Offer in Compromise (OIC) requests for approval.

• All OICs must have SBA approval.

• Send completed tabs to loanresolution@sba.gov

• They are available on our website at: http://www.sba.gov/sites/default/files/OIC_TABS_NGPC_nl.pdf
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 quarterly.

• Quarterly 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 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 or mail it to NGPC.

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 – general questions
secondarymarketliq@sba.gov – secondary market questions
sbapurchase@sba.gov – status of purchase questions
sbachargeoff@sba.gov – quarterly status reports and wrap-up reports

Website – www.sba.gov/for-lenders