

DATE:	July 28, 2021
TO:	NADCO Members – please distribute to all appropriate personnel
FROM:	Wayne Williams – EVP, Regulatory Affairs & Training
SUBJECT:	504 Debt Refinancing – Interim Final Rule

Tomorrow (July 29, 2021) SBA is publishing the new interim final rule for 504 debt refinancing programs as authorized under section 328 of the Economic Aid Act. The interim final rule is effective immediately on July 29, 2021. New loan applications can be processed immediately, provided the CDC uses the new Form 1244 that SBA is also releasing on July 29, 2021. Comments on the new interim final rule must be received on or before 60 days from tomorrow's publication date.

Section 328(a) of the Economic Aid Act revises the conditions and requirements for refinancing debt in the 504 Loan Program as follows –

- For 504 debt refinancing with expansion –
 1. The amount of the existing indebtedness that may be refinanced as part of a 504 Project is increased from not more than 50% to not more than 100% of the project costs of the expansion.
- For 504 debt refinancing without expansion –
 1. Eliminates the condition that the program is only available when the 504 Loan Program is at zero subsidy.
 2. Eliminates the cap that restricting CDCs from processing new refinance loans that exceed 50% of prior year dollar volume.
 3. Allows PCLP CDCs to use delegated authority to approve 504 debt refinance without expansion loan applications. However, PCLP-CDCs are not allowed to process a “same institution debt” refinance project using delegated authority. SBA’s definition of “same institution debt” already references the Third Party Lender; SBA is revising the definition to also mean the debt of the CDC (or its affiliates) that is providing funds for the refinancing.
 4. Reinstates an alternate job retention standard – all existing jobs measured on a full time equivalent (FTE) basis can be counted as jobs retained by the refinancing project.
 5. Qualified Debt must be at least 6 months old before the SBA application date to be eligible for refinance, reduced from 2 years old.
 - Additionally, SBA is removing language allowing a loan to be eligible for 504 debt refinance if that original loan had been refinanced within 2 years of application date, as SBA believes this is no longer necessary given the reduction in the debt seasoning requirement to 6 months.
 6. Allows the refinance of existing government guaranteed debt – existing SBA policies related to refinancing existing 504 or 7(a) loans will apply (these are the same requirements that currently exist for the 504 debt refinance with expansion program), including –
 - For an existing 504 loan, either both the Third Party Loan and the 504 loan must be refinanced, or the Third Party Loan must be paid in full.
 - For an existing 7(a) loan, the CDC must verify in writing that the present lender is either unwilling or unable to modify the current payment schedule. In the case of same institution debt, if the Third Party Lender or the CDC affiliate is the 7(a) lender, the loan will be eligible for 504 refinancing only if the lender is unable to modify the terms of the existing loan because a secondary market investor will not agree to modified terms.
 - The refinancing of any federally-guaranteed debt will provide a “substantial benefit” to the borrower – minimum 10% savings on the new installment amount attributable to the debt being refinanced (same definition as currently used in the 504 debt refinance with expansion program); this is required now for all 504 debt refinance with expansion projects,

7. Eliminates the requirement that the borrower must be current on all payments due for not less than 1 year before the SBA application date – in accordance with prudent lending standards, SBA expects the CDC to consider whether the applicant is current on all payments due and the applicant's history of delinquency in its credit analysis.

Separately, SBA is releasing an updated Form 1244 that must be used with any 504 debt refinancing application (either with or without expansion). Form revisions incorporate the changes outlined above. SBA will publish a separate Notice with the new form. NADCO has confirmed with Ventures that it is working to update the form within the platform. When complete, Ventures will notify its members of the form availability within the platform.

All other existing policies and procedures for 504 debt refinancing with and with expansion continue to apply unless specifically modified by the Interim Final Rule (IFR). Specifically, in the 504 debt refinancing without expansion program, the 20% cap on eligible business expenses (EBE) and the maximum loan to value for projects involving EBE continue to apply. NADCO continues to advocate with SBA to remove both of these provisions and will reinforce that position in our formal comments to the IFR.

NADCO is convening its Regulatory Committee to review the Interim Final Rule to assist in drafting formal comments to the Interim Final Rule (IFR) and will share more information with our membership as those comments are finalized. In the meantime, NADCO encourages all members to email comments and suggestions relating to the IFR to Wayne Williams at wwilliams@nadco.org.

Please refer to the Notice for complete details. To access this TI Memo or the Notice via the NADCO website, please click below.

TI Memo 34-21

[Federal Register Release – Debt Refinancing in the 504 Loan Program](#)