



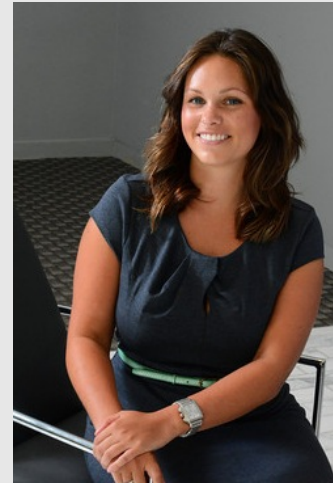
CHANGES TO 504 DEBT REFINANCING PROGRAMS INTERIM FINAL RULE

JULY 30, 2021

WELCOME / PRESENTERS



Wayne Williams
EVP, Regulatory Affairs & Training
NADCO



Denise Ripley
Director, Regulatory Affairs, Training & Support
NADCO

TODAY'S AGENDA

- Changes to 504 Debt Refinance **WITH** Expansion with Case Studies
- Changes to 504 Debt Refinance **WITHOUT** Expansion with Case Studies
- Changes to SBA Form 1244
- Reminder – Temporary TPL Debt Refinance Program
- Update on Fee Waivers
- Update on Section 1112 Debt Relief Payments
- Update on 504 Loan Program Authorization Cap
- Q&A

REGULATIONS AND NOTICES

- Changes to 504 Debt Refinance with and without expansion are permanent 504 program changes
- Interim Final Rule issued July 29, 2021
- 60 day comment period ends September 27, 2021
- SBA Policy Notice 5000-808830 updating SOP 50-10-6 is effective July 29, 2021
- SBA Information Notice 5000-809115 updating the SBA Form 1244 is effective July 29, 2021



504 DEBT REFINANCE WITH EXPANSION

CHANGES

504 DEBT REFINANCE WITH EXPANSION – CHANGES

- Amount of existing indebtedness that may be refinanced as part of a 504 Project increased from not more than 50% to not more than 100% of the project costs of the expansion
- No other changes to 504 Debt Refinance WITH Expansion
- Applicant must still be current on all payments due for 12 months preceding SBA application date

504 DEBT REFINANCE WITH EXPANSION – CASE STUDY I

Appraised Value of Property As-Is	\$1,000,000		New Costs	\$2,000,000	
Existing Debt	\$700,000				
Use of Funds			Sources of Funds		
Existing Equity	300,000		Third Party Loan	1,500,000	50%
Existing Debt *	700,000		SBA 504 Loan	1,200,000	40%
New Construction	1,400,000		Borrower Contribution	300,000	10%
Equipment	300,000		TOTAL SOURCES	3,000,000	100%
Soft Costs -					
settlement costs	50,000	} New costs	* Note: - Existing debt does <u>not</u> exceed 100% of new costs - Is fully added to 504 project before split		
appraisal & environmental	10,000				
contingencies @10%	140,000				
interest carry	100,000				
TOTAL USES	3,000,000				

504 DEBT REFINANCE WITH EXPANSION – CASE STUDY 2

Appraised Value of Property As-Is	\$3,000,000		New Costs	\$2,000,000	
Existing Debt	\$2,500,000*				
Use of Funds			Sources of Funds		
Existing Equity	500,000		Third Party Loan	2,200,000	49%
Existing Debt *	2,000,000		SBA 504 Loan	1,800,000	40%
New Construction	1,400,000		Borrower Contribution	500,000	11%
Equipment	300,000		TOTAL SOURCES	4,500,000	100%
Soft Costs -					
settlement costs	50,000	} New costs	* Note: - Existing debt exceeds 100% of new costs - Eligible Debt Refi amount is limited to \$2,000,000 - Remaining \$500,000 is ineligible and is added to Third Party Loan after structure eligible 504 Project → final TPL Loan = \$2,700,000		
appraisal & environmental	10,000				
contingencies @10%	140,000				
interest carry	100,000				
TOTAL USES	4,500,000				



504 DEBT REFINANCE WITHOUT EXPANSION

CHANGES

504 DEBT REFINANCE WITHOUT EXPANSION – PROGRAM CHANGES

- **Eliminates** the condition that the program is only available when the 504 Loan Program is at zero subsidy
- **Eliminates** the cap restricting CDCs from processing new refinance loans that exceed 50% of prior year dollar volume
- **Allows** PCLP CDCs to use delegated authority to approve 504 debt refinance without expansion applications, except –
 - If the debt being refinanced is the existing debt of the CDC, or the TPL, or affiliates of either
 - If the CDC is requesting an exception to the “substantial benefits test” – 10% savings in payment on amount of debt refinance
 - If the CDC is requesting a waiver of the requirement that the 504 eligible fixed assets collateralizing any debt to be refinanced also collateralize the 504 loan
- **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 –
 - 1 job per \$75,000 of 504 debenture amount for all applicants except small manufacturers
 - 1 job per \$120,000 of 504 debenture amount for small manufacturers (**confirmed with Linda Reilly on 7/29/2021**)
- If Project does not meet Job Creation/Retention, CDC can continue to use all available Policy Goals (**confirmed with Linda Reilly on 7/29/2021**)

REVISED DEFINITION OF “QUALIFIED DEBT” – SEE SOP 50-10-6, PAGE 463, PARAGRAPH 10.C.III.

- a. Must meet the 85%/15% test – **NO CHANGE**
 - Substantially all (85% or more) of the proceeds of the existing debt was used to acquire an Eligible Fixed Asset(s) and the remaining amount (15% or less) was incurred for the benefit of the small business seeking financing as measured by the “original loan”
- b. Was incurred not less than 6 months prior to SBA application date – **CHANGED FROM 2 YEARS – NO EXCEPTIONS**
- c. Was incurred for the benefit of the small business seeking financing – **NO CHANGE**
- d. Has been secured by Eligible Fixed Asset(s) for at least 6 months – **CHANGED FROM 2 YEARS**
- e. Has been “current on all payments due” – **DELETED....however....**
- f. “May include” debt subject to a federal guarantee – **CHANGED FROM “IS NOT”, subject to limitations...**
- g. Is not a Third Party Loan which is part of an existing 504 Project, except under limited conditions – **ALLOWED, subject to limitations...**
- h. May consist of one or more loans, provided each meets all the requirements of Qualified Debt – **NO CHANGE**

REFINANCE OF EXISTING GOVERNMENT GUARANTEED DEBT

- **Allowed under limited conditions** – same conditions required in 504 debt refi with expansion
- **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** – may be refinanced in whole or in part
 - 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
- **Note** – these requirements also exist in the SBA 7(a) loan program – see SOP 50-10-6, page 227, paragraph I.i., I.j., and I.k. for more information

REFINANCE OF EXISTING GOVERNMENT GUARANTEED DEBT

- **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
 - Must include prepayment penalties, financing fees, and other financing costs in the amount to be refinanced when calculating 10% savings
 - NADCO has form template for Substantial Benefits Test
 - This requirement also exists in the SBA 7(a) loan program – see SOP 50-10-6, page 230, paragraph 1.e. for more information

SUBSTANTIAL BENEFITS WORKSHEET

■ Template Form

■ Available at:

■ <https://www.nadco.org/page/regulatorypage>

■ Under “Debt Refi”

■ Can now be used in –

■ 504 Debt Refi with Expansion

■ 504 Debt Refi Without Expansion (when refinancing existing government guaranteed debt only)

SUBSTANTIAL BENEFITS TEST

required for ALL 504 debt refinance WITH expansion projects
required for 504 debt refinance WITHOUT expansion projects involving government guaranteed debt

Fill-In
Option to Fill-In monthly payments directly (if available)
Calculated Field
Eligibility Determination

1. What is the Total Project Cost?

2. For 504 debt refi WITH expansion only, enter new expansion costs
For ALL projects, enter Total Debt being Refinanced

NOTE - for 504 debt refi without expansion, enter "0"
REMINDER - eligible debt refi cannot exceed 100% of new expansion costs in 504 debt refi WITH expansion

#DIV/0!

3. Does debt being refinanced have a balloon payment?
place "X" in cell to answer question

YES	NO
-----	----

If "yes" to Question #3, STOP - Substantial Benefits Test has been met
If "no" to Question #3, complete below for Substantial Benefits Test

4. What are the installments on the debt being refinanced?

	loan amount	interest rate annual rate	amort period (years)*	monthly payment
debt	\$ 500,000.00	5.2500%	25.0000	\$2,996.24
debt	-	0.0000%	20.0000	\$0.00
debt	-	0.0000%	20.0000	\$0.00
debt	-	0.0000%	20.0000	\$0.00
total	\$ 500,000.00			\$2,996.24

5. What are the Projected payments on the Third Party Loan and the 504?

TPL	\$ -	3.0000%	20.0000	\$0.00
504 loan	\$ -	3.0000%	20.0000	\$0.00
any other project debt (borrowed injection, seller carry etc.)	\$ -	0.0000%	15.0000	\$0.00
TOTAL PROJECT DEBT SERVICE				\$0.00

6. Is there a reduction of 10%?

debt service attributable to debt refinance	#DIV/0!
former installments on debt refinanced	\$2,996.24
reduction %	#DIV/0!

#DIV/0!

* this column requires a value (other than 0.00) for proper calculations

REFINANCE OF EXISTING GOVERNMENT GUARANTEED DEBT

- **Refinancing Federal Debt for Agencies other than SBA**

- If the loan being refinanced is guaranteed by a Federal agency other than SBA, the CDC must document in writing that the refinancing of the Federally-guaranteed loan is permissible under the other Federal agency's requirements or is otherwise approved by the other Federal agency
- Check other agency's SOPs, program guidelines, etc. for documentation
- **NOTE** – In comments to IFR, NADCO will advocate for elimination of this requirement

“CURRENT ON ALL PAYMENTS DUE” REMOVED

- **Eliminates** requirement that borrower must be current on all payments due for not less than 12 months before SBA application date
- SBA still requires payment transcripts for the prior 12 months to be submitted with application
- 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 payment history and history of any delinquency in its credit analysis
- Must explain in credit memo that refinance does not involve a creditor in the position to sustain a loss causing a short to SBA of all or part of a potential loss from an existing debt”

WHAT HAS NOT CHANGED?

- **Disbursement period – NO CHANGE**
 - 9 months after loan approval with an additional 6 months for good cause
- **New businesses – NO CHANGE**
 - Are not eligible for 504 debt refinancing without expansion
 - **NOTE:** In our comments to the IFR, NADCO will advocate for elimination of this requirement, as it was never in the original statute or the updated legislation. SBA originally added it as a requirement when the Qualified Debt also had to be 2 years old – SBA said that that requirement implied that new businesses were ineligible.
- **Eligible Fixed Assets – NO CHANGE**
 - One or more long term fixed assets, such as land, buildings, machinery, and equipment acquired, constructed, or improved by a small business for use in its business operation
- **Refinancing Project – NO CHANGE**
 - Fair market value of the Eligible Fixed Asset(s) securing the Qualified Debt and any other fixed assets acceptable to SBA
 - Additional fixed assets may be added only when needed to comply with the 90% LTV requirement

WHAT HAS NOT CHANGED?

- **Loan to Values (LTV) – NO CHANGE**

- 90% if straight debt refinance
- 85% if debt refi with cash out for Eligible Business Expenses (EBE) and EBE cannot exceed 20% LTV *
- * NADCO continues to advocate for 90% LTV for all projects and no restriction on cash-out for EBE

- **Eligible Business Expenses (EBE) – NO CHANGE**

- Business operating expenses incurred but not paid at SBA application date or that will become due within 18 months of SBA application date
- May include accrued expenses (such as salaries, rent, utilities), inventory, and other business expenses – no capital expenditures
- May not include other business debts except business lines of credit and business credit card debt used for business expenses

504 DEBT REFI & SECTION 1112

- As SBA said on Connect Call on 7/29/2021, if debt being refinanced already received section 1112 payments, the new 504 debt refi project will **NOT** receive **NEW** section 1112 payments

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY I

Refinance <u>without</u> Cash-Out for EBE	As-Is Appraised Value	\$5,000,000
	Existing Debt	\$4,400,000
	Closing Costs	\$100,000

USES OF FUNDS		\$	SOURCES OF FUNDS		\$	%
Existing Equity		500,000	Third Party Loan		2,500,000	50%
Refinance Existing Debt		4,400,000	SBA 504 Loan		2,000,000	40%
Closing Costs		100,000	Borrower Contribution		500,000	10%
TOTAL PROJECT COSTS (*)		5,000,000	TOTAL SOURCES		5,000,000	100%

SBA REQUIREMENTS

(*) Total Project Costs = Appraised Value of All Collateral

Additional collateral can be taken if existing debt exceeds 90% LTV on project property alone

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY 2

Refinance without Cash-Out for EBE

As-Is Appraised Value
Existing Debt

\$5,000,000
\$3,000,000

USES OF FUNDS			SOURCES OF FUNDS		
	\$			\$	%
Existing Equity	2,000,000		Third Party Loan	1,500,000	30%
Refinance Existing Debt	3,000,000		SBA 504 Loan	1,500,000	30%
			Borrower Contribution *	2,000,000	40%
TOTAL PROJECT COSTS	5,000,000		TOTAL SOURCES	5,000,000	100%

SBA REQUIREMENTS

* If borrower contribution exceeds SBA minimum requirement, extra can reduce both TPL loan and 504 loan, provided 504 loan never exceeds the lesser of the TPL loan amount or 40%

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY 3

Refinance with Cash-Out for EBE

As-Is Appraised Value
Existing Debt

\$1,500,000
\$1,00,000

USES OF FUNDS	\$	SOURCES OF FUNDS	\$	%
Existing Equity	225,000	Third Party Loan	675,000	45%
Refinance Existing Debt	1,000,000	SBA 504 Loan	600,000	40%
Cash out for EBE *	275,000	Borrower Contribution	225,000	15%
TOTAL PROJECT COSTS	1,500,000	TOTAL SOURCES	1,500,000	100%

SBA REQUIREMENTS

LTV

Total Financing = **max 85% LTV** 1,275,000 85%

*Cash Out for EBE = **max 20% LTV** 275,000 18.3%

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY 4

Refinance with Cash-Out for EBE

As-Is Appraised Value
Existing Debt 7(a)

\$1,500,000
\$1,00,000

USES OF FUNDS	\$	SOURCES OF FUNDS	\$	%
Existing Equity	225,000	Third Party Loan	675,000	45%
Refinance Existing Debt	1,000,000	SBA 504 Loan	600,000	40%
Cash out for EBE *	275,000	Borrower Contribution	225,000	15%
TOTAL PROJECT COSTS	1,500,000	TOTAL SOURCES	1,500,000	100%

SBA REQUIREMENTS

LTV

Total Financing = **max 85% LTV** 1,275,000 85%

*Cash Out for EBE = **max 20% LTV** 275,000 18.3%

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY 5

Refinance with Cash-Out for EBE

As-Is Appraised Value	\$5,000,000
Existing Debt – TPL loan	\$2,000,000
Existing Debt – 504 loan	\$1,500,000

USES OF FUNDS		\$	SOURCES OF FUNDS		
				\$	%
Existing Equity		750,000	Third Party Loan	2,250,000	45%
Refinance Existing Debt		3,500,000	SBA 504 Loan	2,000,000	40%
Cash out for EBE *		750,000	Borrower Contribution	750,000	15%
TOTAL PROJECT COSTS		5,000,000	TOTAL SOURCES	5,000,000	100%

SBA REQUIREMENTS		LTV
Total Financing = max 85% LTV	4,250,000	85%
*Cash Out for EBE = max 20% LTV	750,000	15%

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY 6

Refinance with Cash-Out for EBE

As-Is Appraised Value	\$1,500,000
Existing 1 st mortgage debt	\$750,000
Line of Credit – 2nd	\$250,000

USES OF FUNDS	\$	SOURCES OF FUNDS	\$	%
Existing Equity	225,000	Third Party Loan	675,000	45%
Refinance Existing Debt	1,000,000	SBA 504 Loan	600,000	40%
Cash out for EBE *	275,000	Borrower Contribution	225,000	15%
TOTAL PROJECT COSTS	1,500,000	TOTAL SOURCES	1,500,000	100%

SBA REQUIREMENTS

Total Financing = **max 85% LTV**

*Cash Out for EBE = **max 20% LTV**

	LTV
1,275,000	85%
275,000	18.3%

Line of credit is over 6 months old and funded renovations to Project Property

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY 7

- Appraised Value = \$1,000,000
- Small business owner owns building free and clear
- She would like to tap into equity to get \$500,000 out for renovations
- **NOT ELIGIBLE**
- There must be QUALIFIED DEBT on every 504 Debt Refinancing project

504 DEBT REFINANCE WITHOUT EXPANSION – CASE STUDY 8

- Appraised Value = \$1,000,000
- Existing 1st mortgage debt is a \$500,000 line of credit used for various business operating expenses
- **NOT ELIGIBLE**
- The line of credit does not meet the definition of QUALIFIED DEBT, as it was not used to acquire ELIGIBLE FIXED ASSETS
- There must be QUALIFIED DEBT on every 504 Debt Refinancing project



SBA FORM 1244

CHANGES DETAILED IN SBA INFORMATION NOTICE 5000-809115

PAGE 12 – QUESTION #1

- Revised question #1 to determine if a PCLP CDC can use delegated authority to process debt refi loans

1. Does the Applicant project involve debt refinancing? ☐ Yes ☐ No
If yes, with or without expansion? ☐ With expansion ☐ Without expansion

(a) If debt refinancing with expansion:

- Is the debt being refinanced the debt of the CDC or the TPL, or of affiliates of either? ☐ Yes ☐ No
- Is the CDC requesting an exception to the requirement that the new installment payment be at least 10% less than the existing installment amount(s)? ☐ Yes ☐ No
- Is the CDC requesting a waiver of the requirement that the 504 eligible fixed assets collateralizing any debt to be refinanced (or relating the portion of debt being refinanced in the case of partial refinance) also collateralize the 504 Loan? ☐ Yes ☐ No

If the answer to any of the questions in 1(a) above is “yes”, then the application must be processed through SLPC and not through the PCLP CDC’s delegated authority.

(b) If debt refinancing without expansion:

- Is the debt being refinanced the debt of the CDC or the TPL, or of affiliates of either? ☐ Yes ☐ No
- If the debt being refinanced is subject to a guarantee by a Federal agency, is the CDC requesting an exception to the requirement that the new installment payment be at least 10% less than the existing installment amount(s)? ☐ Yes ☐ No

If “yes”, then the application must be processed through SLPC and not through the PCLP CDC’s delegated authority.

PAGE 13 – PROJECT COST GRID

- Added “Land Only Purchase”

	SBA	Third Party Lender ²	Borrower Contribution ³	Other Source ⁴	Totals
Land/Building Purchase	\$	\$	\$	\$	\$
Land only Purchase	\$	\$	\$	\$	\$
New Construction/ Remodeling/Building Improvement	\$	\$	\$	\$	\$
Machinery/Equipment	\$	\$	\$	\$	\$
Debt to be Refinanced	\$	\$	\$	\$	\$
Eligible business expenses under Debt Refinancing	\$	\$	\$	\$	\$
Professional Fees (e.g. appraiser, architect, legal)	\$	\$	\$	\$	\$
Other Costs (e.g., construction contingency, interest on interim financing)	\$	\$	\$	\$	\$
Totals	\$	\$	\$	\$	\$

PAGE 14 – UPDATED JOBS QUESTION #10 AND ECONOMIC DEVELOPMENT OBJECTIVES QUESTION #12

- Question #10 now includes ability to select “alternative job retention” job goal
- Question #12 added “base closures” and “Minority-Owned Business”

10. Does the project create or retain the required number of jobs per debenture amount? ☐ Yes ☐ No
If no, is the project eligible based on the CDC’s overall portfolio job ratio? ☐ Yes ☐ No
If no, is the project eligible under the 504 debt refinance alternative job goal? ☐ Yes ☐ No

12. What Economic Development Objectives are Met by the Applicant Project (check all that apply)

- | | |
|--|---|
| ☐ Business District Revitalization | ☐ Located in an Opportunity Zone |
| ☐ Business restructuring from Federally Mandated Policies Affecting the Environment | ☐ Reduce Energy Use By 10% |
| ☐ Changes Necessitated by Federal Budget Cutbacks or Base Closures | ☐ Reduces Unemployment in Labor Surplus Area |
| ☐ Community or Area Development | ☐ Renewable Energy Production |
| ☐ Enhanced Economic Competition | ☐ Rural Development |
| ☐ Expansion of Exports | ☐ Sustainable Building Designs |
| ☐ Located in a HUBZone | ☐ Veteran-Owned Business |
| ☐ Manufacturing Firm | ☐ Women-Owned Business |
| | ☐ Minority-Owned Business |

PAGES 15-18 – UPDATED EXHIBITS

- **Exhibit 3 – Personal Financial Statement and Personal Tax Returns**

- No longer required for ASM submission

- **Exhibit 20 – Debt Refinancing Without Expansion**

- Revised to delete requirement for copies of note(s) and lien instruments if debt was refinanced within 2 years of SBA application date



TEMPORARY TPL REFINANCE PROGRAM

IN PLACE THROUGH DECEMBER 27, 2021

TEMPORARY TPL DEBT REFINANCE PROGRAM

- See NADCO Technical Issues Memo 23-21 and SBA Notice 5000-20099 for details
- **Example –**
- Temporary TPL Refinance Program allows TPL loan to be refinanced up to a maximum debt of 90% LTV when combined with outstanding balance on 504 loan
- Cash out can be used to pay business operating expenses
- CDC can process 504 subordination **under delegated authority**

	Originati on	Today (5 years later)	TPL Refinance *	%	Cash Out
TPL Loan	500,000	420,000	740,000	62	320,000
504 Loan	400,000	340,000	340,000	28	
Borrower	100,000		120,000	10	
TOTAL	1,000,000		1,200,000	100	
Appraisal	1,000,000		1,200,000		



FEE WAIVERS & SECTION 1112 DEBT RELIEF PAYMENTS

UPDATE

FEE WAIVERS & SECTION 1112 PAYMENTS

■ Fee Waivers

- 0.5% TPL fee and 1.5% CDC Processing Fee waived
- Waived for new loans approved through 9/30/2021
- New Infrastructure bill will claw back any unallocated funds the day the bill is signed into law; however, Congress is working to divert money from EIDL to full fund fee waivers and the higher 7(a) guarantees through 9/30/2021

■ Section 1112 Payments

- 3 months capped at \$9,000 for new loans approved through 9/30/2021
- Expected to continue pending funding availability
- New Infrastructure bill will **not** disturb Section 1112 payments



504 LOAN PROGRAM AUTHORIZATION CAP

UPDATE

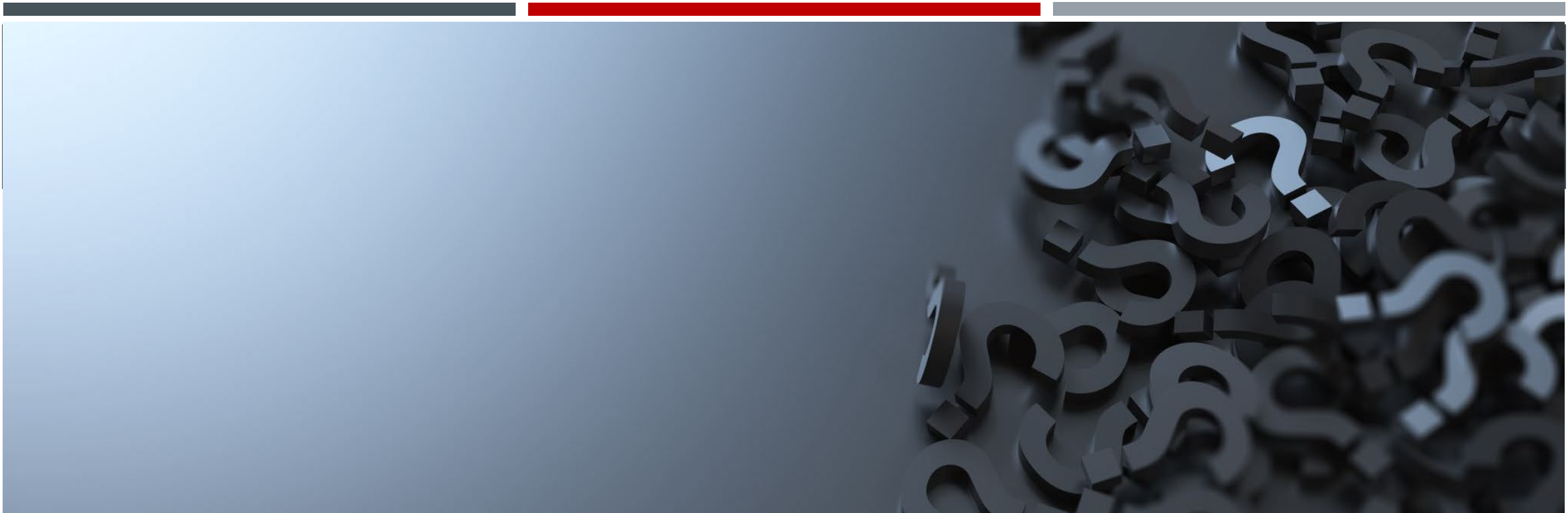
504 AUTHORIZATION CAPS

\$7.5 Billion

- For regular 504 loan program – purchases and 504 debt refinance with expansion
- Through 6/30/2021, we had approved \$5.4 billion
- Monthly approval volume was \$827 million in June
- SLPC has a 900 loan backlog
- We expect to hit the cap by mid September!
- NADCO and SBA working with Congress on a solution

\$7.5 Billion

- For 504 Debt Refi without Expansion Program
- No risk of hitting this cap before 9/30/2021



QUESTIONS

