

From: SBA Office of Financial Assistance Notifications <OFANotifications@sba.gov>
Sent: Tuesday, November 28, 2023 3:03 PM

Subject: Requests for exception to policy for SOP 50 10 7.1 requirement for a lease term that must equal or exceed the term of the loan when the Borrower is leasing space
CSH Email ID:0086520026425

SOP 50 10 7.1 states that for both 7(a) and 504 loans, when the Borrower is operating in leased space, the lease term, including renewal options exercisable only by the Borrower, must equal or exceed the term of the loan.

SBA is aware that this requirement is causing unintended difficulties for Borrowers operating in leased space, and SBA Lenders need instructions on requesting exceptions to this policy.

SBA is currently working on a Procedural Notice that will modify these requirements; however, it may be several weeks before the Notice is published.

In the interim:

7(a) Lenders requesting an exception to this policy may send an email to me at ginger.allen@sba.gov.

CDCs requesting an exception to this policy for 504 loans may send an email to Linda Reilly at linda.reilly@sba.gov.

Linda and I will waive the lease requirement on a loan-by-loan basis.

The SBA Lender's email should provide enough information to identify the loan (e.g., project address). Linda and I prefer to receive one email with a list of loans versus a separate email for each loan. Attachments with lists of loans are acceptable. SBA Lenders should not approve the loan under delegated authority until they receive the waiver from Linda or me.

I can waive the requirement for all 7(a) loans and delivery methods, including SBA Express, Export Express, and loans processed under PLP delegated authority and non-delegated authority. Linda can waive the requirement for all 504 loans.

Linda and I will respond to the SBA Lender's request with an email stating that SBA is waiving the SOP requirement for obtaining a lease with a term, including renewal options exercisable only by the Borrower, that equals or exceeds the term of the loan subject to the SBA Lender and Borrower complying with the

following:

Responsibilities When the Borrower is Operating in Leased Space

When a substantial portion of the loan proceeds will be used for leasehold improvements or a substantial portion of the collateral consists of leasehold improvements, fixtures, machinery, or equipment that is attached to leased real estate:

- i. The SBA Lender must obtain a copy of the written lease between the Borrower and the landlord. The lease term, including renewal options exercisable only by the Borrower, should equal or exceed the term of the loan.
- ii. An assignment of lease and Landlord's waiver should be obtained. If the SBA Lender is unable to obtain the assignment of lease or landlord's waiver:
 - a) The lease term, including renewal options exercisable only by the lessee, must equal or exceed the term of the loan; and
 - b) The SBA Lender must document its file with the attempt to obtain the assignment and the landlord's waiver and the reason(s) for not providing it.

SBA Lenders should document the loan file with a copy of the response from Linda or me.

Alternatively, SBA Lenders may submit the application for non-delegated processing to LGPC for 7(a) loans or to SLPC for 504 loans. Both centers are authorized to provide the same exception to this policy subject to the SBA Lender and Borrower complying with the above requirements.

Thank you,

Ginger Allen
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