



NATIONAL ASSOCIATION OF GOVERNMENT GUARANTEED LENDERS

Discussion Topics

- How SOP 50 10 5(A) reflects Express and Pilot Program policies
- What are the Express and Pilot Programs?
- Becoming a participant lender
- Program parameters
- Loan criteria
- Making, closing, servicing Express and Pilot loans
- Express and Pilot guaranty purchase requests

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How SOP 50 10 5(A) Reflects Express and Pilot Policies

- Processing portions of Program Guides for SBA Express and Patriot Express incorporated, BUT
 - Lender must continue to use program guides for servicing and liquidation issues
- Previous requirements – generally, if guides silent, lender free to use own policies for similar conventional loans
- New requirements – unless specific policy exception cited, lender must follow general program requirements
- Result = somewhat less flexibility to lender

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What is SBA Express?

- Statutorily authorized permanent 7(a) sub-program
- Reduces requirements for government-mandated forms and processes
- Lender uses mostly own forms and processes and expected to follow internal procedures for similarly sized non-SBA loans
- Centralized processing – Sacramento, CA

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SBA Express Program Parameters

- Maximum SBA guaranty: 50% - NOT eligible for temporary maximum guaranty increase to 90%
- Maximum loan amount: \$350,000
 - Including any outstanding SBA Express, Community Express, Patriot Express and Export Express

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Who is Eligible to Become an SBA Express Lender?

- Existing SBA Lenders
- Lenders not currently participating in SBA Loan Programs

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Participation Standards for Existing Lender

- Ability to process, close, service and liquidate SBA loans
- Acceptable currency, default and loss rates
- Satisfactory review/examination rating from Office of Credit Risk Management AND has no major objections from D/OCRM
- Current on 1502 filing and payment of fees . . .

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Participation Standards (cont.)

- At least an 85% currency rate (for last 3 FY + interim)
 - 90% currency rate required for 2 year term
- If federally/state regulated, in good standing with primary regulator
- Not subject to any SBA enforcement actions AND
- Not received a substantive objection from its Lead SBA Office

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Participation Standard for New SBA Lender

- In good standing with primary federal/state regulator
- Portfolio includes at least 20 commercial or business loans for \$350,000 or less at their last fiscal year end
- History of acceptable currency, default and loss rates on loans of \$350,000 or less
- Primary SBA loan personnel have received appropriate training on SBA's program requirements
- No major substantive objections from the D/OCRM

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Becoming an SBA Express Lender

- Submit written request to Sacramento Loan Processing Center with copy to Lead SBA Office
- Center gathers information, evaluates and makes recommendation to appropriate SBA official who makes final decision
- Lender must execute a Supplemental Loan Guaranty Agreement
- Approval subject to periodic renewals and new lender may be limited to \$25 million for 1st year

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SBA Express Eligibility Authority

- Lenders must be fully familiar with SBA eligibility requirements
 - Size – lender generally may rely on applicant certification
 - Franchise – lender must determine eligibility
- Complex or ambiguous eligibility issues – not appropriate for SBA Express
- SBA may authorize qualified lender to fully determine eligibility without submitting eligibility checklist to SBA
- *Eligibility Authorized Lenders* must use authority to process all SBA Express loans, but may consult with SBA

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What are the Pilot Loan Programs?

- Initiatives intended to operate for a limited period of time to determine –
 - their effectiveness at meeting stated objectives
 - AND
 - whether they should be made permanent, extended for an additional temporary period or ended
- Current Pilot Programs
 - Patriot Express
 - Community Express
 - Export Express

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What is Patriot Express?

- SBA-developed 7(a) initiative intended to support the entrepreneur segment of the Nation's military community (including spouses)
- Uses streamlined documentation and processing features similar to SBA Express
- Lender uses mostly own forms and processes and expected to follow internal procedures for similarly sized non-SBA loans
- Centralized processing – Sacramento, CA

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Patriot Express Program Parameters

- Maximum SBA guaranty:
 - Loans of \$150,000 or less = 85%
 - Loans over \$150,000 up to \$500,000 = 75%
 - Eligible for temporary maximum guaranty to 90%
- Maximum loan amount: \$500,000
 - Including any outstanding SBA Express, Community Express, Patriot Express and Export Express

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Patriot Express Eligibility

- Applicant must be at least 51% owned and controlled by:
 - Veteran
 - Active duty military participating in the Transition Assistance Program
 - Reservist or national guard member
 - Spouse of anyone in these groups
 - Widowed spouse of a service member who died while in service or a veteran who died of a service-connected disability

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Who is Eligible to Become a Patriot Express Lender?

- Current participants in PLP or SBA Express programs = automatically eligible
- Other existing SBA lenders must meet criteria for SBA Express participation
- Lenders not currently participating with SBA BUT
 - First must become SBA Express or PLP lender

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Becoming a Patriot Express Lender

- Current SBA Express and PLP lender = automatically eligible
- Other SBA participant, or SBA field office, may submit written request to Sacramento Loan Processing Center
- New lender must be SBA Express or PLP before applying for Patriot Express
- Lender must execute a Supplemental Loan Guaranty Agreement
- Approval subject to periodic renewals and new lender may be limited to \$25 million for 1st year

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Community Express Pilot Program

- Eligibility
 - Hub Zone or CRA-designated area
 - Loans under an SBA HQ approved local community economic development initiative
 - Any other loan under \$25,000
- Maximum SBA guaranty:
 - Loans of \$150,000 or less = 85%
 - Loans over \$150,000 up to \$500,000 = 75%
 - Eligible for temporary maximum guaranty to 90%
- Maximum loan amount: \$250,000 (including all Express)
- Technical Assistance a key requirement

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Express – Loan Structure Options

- **Term loans**
- **Short-term loans**
 - Lines of credit

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Express Loan Eligibility

- **The SBA Express lender must apply all SBA business loan requirements**
 - Including credit elsewhere and personal resources tests
- **Credit decision delegated to Lender**
- **Underwriting must be consistent with that used for non-SBA loans**
 - Credit scoring can be used by the lender

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Maximum Maturities

- **Maturity**
 - **Based on**
 - Borrower's ability to repay and
 - Use of proceeds
 - **Apply regular 7(a) standards**
 - Working Capital or Inventory – up to 10 years
 - Equipment, Furniture, Fixtures – up to 10 years or useful life of asset
 - Real Estate – up to 25 years
 - Mixed purposes – may be blended or maximum for asset class comprising largest percentage of use of proceeds

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Maximum Maturity Revolving Lines of Credit

- **Terms**
 - Maximum of 7 years from original note date
 - Beyond one year, additional guaranty fee
 - Term-out of the loan is allowed
 - Combined terms cannot exceed 7 years
 - EXCEPT if workout situation

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Revolving Line of Credit

- **Term Examples:**
 - 3 year revolving with 4 year term out
 - 5 year revolving with 2 year maturity extension
 - 1 year revolving with 6 year maturity extension
 - Additional fee required
- **Total term may not exceed SBA guarantee commitment**

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Revolving Line of Credit

- **Workouts**
 - May be termed out past 7 years ONLY for a workout situation
 - Not to exceed 3 additional years
 - No additional guaranty fee required

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Additional Conditions

- Maturity date must be established in note
- Non-financial default provision allowed under certain conditions:
 - Must be for substantive cause
 - Borrower must be notified in writing at loan closing
 - Provisions must be consistent with non-guaranteed loans
 - Lender may not request purchase solely for non-financial default

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Maximum Interest Rates

- SBA and Export Express
 - \$50,000 or less – cannot exceed Prime, LIBOR Base Rate or SBA Optional Peg Rate + 6.5%
 - Over \$50,000 – cannot exceed those rates + 4.5%
- Patriot and Community Express
 - Same as for regular 7(a)
- EXCEPT for SBA and other Express (except Patriot), lender may establish own base rate for variable rate loans, but effective rate cannot exceed SBA maximum

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Collateral Requirements

- Loan amounts \$25,000 and less – no collateral required
- Loans over \$25,000 – lender follows its internal loan policy to determine adequate collateral coverage – using prudent lending practices
- Patriot Express over \$350,000 – lender must follow standard 7(a) collateral policy
- Unlike regular 7(a) – IF lender gives value to business operating and trading assets when reviewing collateral for its conventional loans of similar size, can include these assets for Express

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Eligible Uses of Proceeds All Express Programs

- Loan proceeds must be used exclusively for business-related purposes
- Export Express – proceeds must be used to develop or expand applicant's export markets

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Refinancing Under SBA Express

- Under SBA Express, a lender may refinance an existing non-SBA borrower debt if:
 - The existing loan no longer meets the needs of the applicant
 - The new loan meets the SBA's 20% increase in cash flow requirement

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Refinancing Under SBA Express

- A lender may refinance its own debt, BUT
 - Existing debt must have been current for at least the last three years
 - Lender's exposure to applicant will not be reduced
- Refinancing of SBA-guaranteed debt prohibited, except loan for purchase of an existing business with an outstanding SBA loan with another lender

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Refinancing Under Patriot Express

- Lender may not reduce its existing credit exposure for any borrower EXCEPT
 - When an interim loan has been made – then subject to regular 7(a) requirements

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Reducing Lender's Exposure

Example 1 – Eligible

- \$50,000 conventional line rolled into \$100,000 Express line of credit
 - Lender's exposure stays the same at \$50,000 (\$100,000 x 50%)

Example 2 – Not Eligible

- \$75,000 conventional line rolled into \$100,000 Express line of credit
 - Lender's exposure is reduced from \$75,000 to \$50,000 (\$100,000 x 50%)

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Character Determinations

- Processing under SBA Express and Patriot Express generally only if all criminal history questions on SBA Form 1919 are answered "no" – BUT
- Some positive responses can be cleared by lender:
 - Up to 3 minor offenses (# now defined) – more than 10 years ago OR
 - Offense cleared by SBA within past 6 months
- Applicant must complete Form 912
 - Fully completed 912 is crucial
 - Specific description of each charge and date and location of occurrence
 - Disposition of each charge

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SBA's Review of Credit Decisions

- SBA will review credit decisions as part of lender reviews AND
- At time of guaranty purchase, BUT SOP has conflicting language:
 - One paragraph states SBA will review credit decision if loan is an "early default"
 - Another says lender's analysis subject to SBA's review and determination of adequacy "when the lender requests SBA to purchase its guaranty" – i.e, if any default
 - SBA has stated that it has the authority to review any credit decision at any time

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Guaranty Fees

- All guaranty fees temporarily eliminated under Recovery Act provisions
- SBA Guaranty Fee - Long-term loans
 - Loans up to and including \$150,000 – 2% of guaranteed amount
 - Loans >\$150,000 up to \$350,000 – 3% of guaranteed amount
 - May be reimbursed by borrower
 - Due to SBA within 90 days of loan approval

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Guaranty Fees

- SBA Guaranty Fee
 - Short-term loans (under 12 months)
 - 0.25%
 - If LOC extended beyond one year, the long-term loan guaranty fee applies
 - May be reimbursed by borrower
 - Due to SBA within 10 days after loan number assigned

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On-Going Fee

- **NOT** subject to temporary waiver
- Annual Service Fee required on all loans
- Established at time loan is made and remains the same throughout the life of the loan
- Current fee for loans made during FY 2009 – 55 basis points (current maximum allowed by statute)
- Fee may **not** be charged to borrower

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Other Fees Permitted – All Express Loans

- Generally, lender may charge same fees as for non-guaranteed loans – EXCEPT
- Servicing fees only permitted for 'extraordinary' servicing actions
- Referral fees specifically prohibited
- Fees charged must be customary and must bear a relationship to the actual service provided

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SBA Express and Pilot Processing

- May submit via mail or fax
 - SBA Express, Patriot Express and Community Express to Sacramento Loan Processing Center
 - Export Express to USEAC in area where business is located
- E-tran Available for all by Export Express
 - SBA Contacts:
 - Stephen Kucharski 202.205.7551
 - Glenn Hannon 202.205.7122

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Closing Process

- **Use lender's policies and procedures**
- **Note must be enforceable and assignable**
 - Lender is not required to use SBA Note (SBA Form 147)
 - Must have a stated maturity date
- **Special SBA Express Loan Authorization prepared and signed by lender**
 - Copy sent to SBA Servicing Center after loan closing
- **SBA Form 1050, Settlement sheet**
 - NOT required
 - Use conventional disbursement process for similar size loans

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Closing Process

- **SBA Form 1919 – Borrower Information Form**
 - Compilation form providing mandatory notices, and obtaining mandatory information
 - Can be signed at closing
- **SBA Form 159 – Fee Disclosure and Compensation Form**
 - Required if fees paid in connection with loan
- **Signed 4506-T Form**
 - Request for IRS tax transcripts can be submitted after closing
 - Verification required before first disbursement

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Closing and Post-Disbursement

- **Lender drafts and signs abbreviated Express loan authorization**
 - Copy submitted to SBA only at time of guaranty purchase
 - Other documents also held in lender's file
- **Term loan must be fully disbursed within 48 months of approval or any remaining undisbursed balance will be cancelled by SBA**
- **Revolving line of credit considered to be fully disbursed at the time of first disbursement**

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Closing and Post-Disbursement (cont)

- Access to funds through a variety of methods allowed consistent with lender policy for similar conventional loans
- Credit card access acceptable, BUT lender must protect against borrower misuse AND must ensure loans are documented by legally enforceable and assignable promissory notes or other debt instruments

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SBA Express Closing Process

- Real Estate Appraisal
 - Not required for loans <\$250,000
 - Required for loans >\$250,000
- Appropriate Environmental Review
 - NOTE: SBA Express requires environmental only on “primary” collateral

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Insurance Requirements

- Hazard Insurance
 - NOT required if lender does not require for conventional loans BUT
 - Lender must document rationale in its file
- Flood insurance [Same as regular 7(a)]
- Life Insurance
 - Lender may follow its conventional loan policies

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Servicing Actions SBA Notification Required

- Any action requiring change in SBA data
 - Loan decreases or cancellation
 - Change loan maturity
 - Assumption, change in name or address
 - Interest rate change
 - Changes in database:
 - Address change, Name change, etc.

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Loan Increases – All Express

- Lenders must follow established credit review and analysis procedures
- Term loans – increases only up to 20 percent over original loan amount and within 18 months of initial approval
- Revolving LOCs
 - May be increased at any time within 7 years of approval
 - Dollar limit is program limit in effect when loan originally approved
 - Increases over 33% of original loan amount must include analysis of credit and risk factors
 - SBA must approve, no new loan number will be issued

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SBA Express Guaranty Purchases

- Unless the lender requests “expedited purchase,” SBA requires that lender liquidate all collateral prior to request SBA’s purchase
- Purchase requests must be made to the Commercial Loan Servicing Center servicing your loans – Fresno or Little Rock
- Purchase Demand Kit (PDK) available at: www.sba.gov/banking
 - Use of new 10-tab system encouraged – not yet mandatory

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SBA Express Office of Inspector General – Oversight

- **OIG audit of SBA Express and CommunityExpress Loan Purchase and Liquidation Process (#7-08, 12/29/2006)**
- **Conclusion: “The SBA Express loan purchase process did not detect material lender deficiencies in 44 of 45 loans sampled”**
- **Findings – Lenders failed to:**
 - Verify use of loan proceeds
 - Obtain critical background information about borrower (SBA Form 1919)
 - Obtain IRS verification of borrower financial information
 - Determine borrower eligibility

Go to the SBA IG Website to read this report and the findings in audits of individual purchase cases: www.sba.gov/IG/igreports.html

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We're Finished!

- **Questions?**
- **Thank you!**
- **Any Additional Questions: info@naggl.org**
- **Contact: jbutler@naggl.org**

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