

FAQ: New Temporary 504 Refinancing Program October 12, 2011

Q: How is the temporary Jobs Act Debt Refinance program different from the permanent 504 debt refinance program?

A: In the permanent 504 refinancing program the project is required to have an expansion component and the refinanced portion must not exceed 50 percent of the total cost of the expansion. The new, temporary 504 refinancing program does not allow an expansion to be financed and can only be used to refinance existing eligible debt.

Q: Is financing for business expenses allowed for in this program?

A: The Small Business Jobs Act authorized SBA to provide funding to small businesses for additional business expenses not originally part of the debt being refinanced. On October 12, 2011, SBA revised the program to allow financing of eligible business expenses.

Q: What eligible business expenses may be paid with the refinancing proceeds?

A: Any expense directly related to business operations. Examples include: indebtedness to the business, salary, utilities, inventory, or insurance.

Q: Can I pledge other collateral to cover my equity requirement or to finance business expenses?

A: Yes. Other fixed assets acceptable to SBA may be pledged.

Q: How long must a small business be in operation to be eligible for this loan program?

A: The Small Business Jobs Act states that debt must have been incurred at least two years prior to the application date and thus the small business must have been in operation for at least two years prior to the date of SBA application.

Q: Has the program been expanded to allow loans that mature after December 31, 2012?

A: Yes, on April 4, 2011, SBA expanded the program to include loan maturities after December 31, 2012.

Q: What if the debt being refinanced includes some proceeds that would not be eligible for the traditional 504 program?

A: As long as a substantial portion (85% or more) of the original loan was used to acquire, construct or improve eligible fixed assets, it would qualify for refinancing under this program.

Q: Are assets financed with a federal guarantee—including an SBA-approved 7(a) or 504 loans—eligible for refinancing under this program?

A: No. The Small Business Jobs Act prohibits loans with any government guarantee from being refinanced under this program.

Q: What about existing first mortgages originally financed under the 504 program by ‘third-party lenders’? Why is there a prohibition on refinancing that debt?

A: SBA is restricting the program to mortgages not funded under the 504 program, as these third-party lenders have already benefitted from having access to subordinated debt provided by the federal government.

Q: How would the small business show that substantially all of the debt was for 504-eligible purposes and that the remainder of the debt was for the benefit of the small business?

A: The application must include certifications by the small business, CDC and Third Party Lender that either:

(a) If the original loan is the current loan: substantially all (85% or more) of the proceeds of the indebtedness being refinanced was used to acquire an Eligible Fixed Asset and the remaining amount (15% or less) was incurred for the benefit of the small business seeking the refinancing; or

(b) If the original loan has been refinanced: The loan that originally financed the Eligible Fixed Asset must satisfy the 85/15 criteria AND the current commercial loan is the most recent refinancing of that original loan.

Q: The rules indicate that the loan must have been current. Define “current”.

A: Current is defined as:

- No payments more than 30 days past due according to original or modified terms.
- Any modification must have been entered into in writing prior to 10/12/11.
- SBA reserves the right to determine if a modified payment schedule would preclude refinancing under this program.

Q: What documentation must be provided to SBA to document the loan(s) to be refinanced are current?

A: Third party lender must provide a transcript for the last 12 months of the most recent refinancing. If a loan has been modified during that twelve month period, a written agreement of the modification must be provided and a full transcript may be requested.

Q: What if a bank portfolio transfer has occurred and there are issues obtaining the original debt bank transcripts?

A: SBA experience with the permanent 504 debt refinancing program is that transcripts are available even after a bank portfolio transfer; however, it may take longer to obtain such transcripts.

Q: Will the borrower be required to increase its contribution to 15 % or 20% if the fixed asset to be refinanced is a limited or special purpose building?

A: No.