



SBA 504 Debt Refinance

Temporary 504 Loan Refinancing for Eligible Small Business Assets under the Small Business Act

- Authorized September 27, 2010
- Key Program Changes April, 2011
- Final Rules Issued October 12, 2011
- Expires September 27, 2012

Summary

- Major Changes as of October 12th, 2011
 - Cash Out for Eligible Business Expense
 - Third Party Lender No Longer Required to be at 50% of Appraised Value
 - Expansion on the Definition of Qualified Debt
 - New Certification Option for Cost Documentation
- Standard Requirements under the Refinance Program
- What Does a Good Refinance Candidate Look Like?
- Questions and Answers

Jobs Act – 504 Temporary Debt Refinance Program Background to Final Rule

- On September 27, 2010, the Small Business Jobs Act of 2010, P.L. 111-240 (Jobs Act) was signed into law.
- The Jobs Act temporarily authorizes the 504 program to refinance debt without business expansion.
- Administration had proposed that the refinance program be targeted to just refinancing of existing mortgages to “ration” program authority to most needy.
- At the industry’s request, Congress authorized that the program could also finance other business debt and expenses.
 - Most comments to the interim final rule asked SBA to allow this
 - Jobs Act listening tour identified critical need for working capital
 - Sufficient program authority is available
 - It will strengthen more small businesses and may increase employment

Financing Business Expense

- Borrower may now use its equity to finance Eligible Business Expense up to 90% of appraised value.
- **Eligible Business Expenses** means the business expenses of the Borrower:
 - Such as rent, utilities, inventory, and paying off/down business lines of credit or other term debt.
 - Incurred but not paid prior to the date of the application and/or those expenses that will come due within 18 months.

Eligible Business Expense – Cont.

- Expenses incurred for "upkeep and maintenance" of the Project Property or to purchase equipment are eligible business expenses since these would be usual working capital uses.
 - Upkeep and maintenance - but not changing the footprint of the building - may include a new roof, repaving a parking lot, interior improvements such as flooring, redecorating, etc.
- What are not eligible business expenses are purchasing a new property, purchasing a new business or buying out a co-owner.

Financing Business Expense - Example

Appraised Value	\$1,000,000
Outstanding Qualified Debt	\$ 500,000
90% Loan to Value	\$ 900,000
Third Party Loan (50%)	\$ 500,000
504 Loan Proceeds (40%)	\$ 400,000
Equity (10%)	\$ 100,000
Cash Funds for Business Expenses	\$ 400,000

Documentation for Eligible Business Expenses

- The CDC, Third Party Lender and the Borrower will all be required to certify that the funds will be used to cover eligible business expenses
- The Borrower must be able to substantiate the use of funds for business expenses.
 - Examples - Copies of utility bills or payroll receipts, canceled check evidencing rent payments, business credit card bills, loan payoff statements.



Amount of Third Party Loan

- Third Party Loan Amount
 - Rule is now consistent with the permanent 504 Loan program in that the Third Party Loan must be at least as much as the 504 Loan.
- That means the Third Party Loan is no longer required to be at least 50% of the appraised value.

Third Party Loan Amount – Example

Appraised Value	\$1,000,000
Outstanding Qualified Debt	\$ 500,000
Third Party Loan (25%)	\$ 250,000
504 Loan Proceeds* (25%)	\$ 250,000
Equity (50%)	\$ 500,000

*504 Loan Amount can never be more than 40% of the appraised value.

Changes to Qualified Debt Criteria

- The existing debt may qualify if the loan that originally financed the Eligible Fixed Asset satisfies the 85/15 criteria **AND** the current commercial loan is the most recent refinancing of that original loan.
- Borrower, Third Party Lender & CDC certify that all of the proceeds of the indebtedness being refinanced were used for the benefit of the small business.

“Substantially All” 85% or More Requirement

- Substantially all (85% or more) of the proceeds of the indebtedness being refinanced were used to acquire Eligible Fixed Assets and the remaining amount (15% or less) was incurred for the benefit of the small business seeking the refinancing
- The “substantially all” requirement applies to the **original** loan not the most current loan being refinanced.

What Does This Mean?

- Multiple refinances that may have occurred no longer impact **eligibility** since the determination is now based on the original loan.
- Third Party Lender, CDC & The Borrower must make a good faith effort to search for the documents that pertain to the original loan with which the Eligible Fixed Asset(s) was acquired and for the subsequent refinancing documents, if any, to show that the current commercial loan is the most recent refinancing.
 - If the genealogy of the debt has been with the participating lender for its life, SBA will require that this documentation be provided.

Missing Document Certification

- If debt has changed lenders and if the documentation is not available, the Borrower will need to certify (Missing Document Certification) that they have conducted a diligent search for the documents.



General Eligibility Requirement

- All normal 504 eligibility requirements must be met.
- Small business concern must have been in business for two years prior to the submission of application.
- Loans being refinanced must have been current for the past year with no payment past due for more than 30 days according to the original or modified terms.
- Debt must have been incurred not less than two (2) years prior to the date application is received by SBA.
 - As long as the original debt was incurred more than 2 years ago, it is eligible for refinancing even if that debt was refinanced within the past two years by either the Same Institution or a different institution.

Definition of “Current” Payment Status has been Modified

- In the last year, no payments more than 30 days past due according to original or modified terms (including deferments)
- Any modification must have been entered into prior to October 12, 2011 (date of publication of Final Rule)
- SBA reserves the right to determine if a modified payment schedule would preclude refinancing under this program

Required Documentation

- Copy of the Full Promissory Note being Refinanced
- Copy of Lien Instruments Currently being used to Secure the Note (I.E. Mortgage, GBSA, Etc.)
 - Need recorded mortgages
- Copy of a Transcript or Payment History for the Past 12 Months
- An Appraisal Dated within 6 Months and an Environmental Investigation Report Dated within One Year.
- If Loan Terms were Modified, a Copy of the Written Modification Agreement

Other Considerations

- Third Party Lender must be in a 1st lien position and WBD/SBA must be in a 2nd.
- All loans must be funded by the sale of the debenture within six (6) months of approval.
- Delinquency after loan approval but before loan funding are considered an adverse change.
- There will be an ongoing guarantee fee (supplemental subsidy fee) of 1.103% on the total unpaid balance of the debenture.
- Effective 20 yr Refinance Rates as of October 2011 – 4.968%

Restrictions

- No refinancing of loans with an existing federal guaranty. (e.g. a 7(a) loan or USDA loan)
- No refinancing of debt if it is to an Associate of the Borrower or a SBIC or New Market Ventures Capital Companies (NMVCC).
- No refinancing of loans which is already part of an existing 504 project.
- No refinancing where the creditor on the debt to be refinanced is in a position to sustain a loss causing a shift to SBA or all or a portion of a potential loss from an existing debt.

Good 504 Refinance Candidates

- Businesses with equity in fixed assets that could benefit from additional working capital or an opportunity to restructure or retire short-term debt.
- Companies that have stayed current on obligations but could benefit from an extended amortization and fixed rate on a portion of their existing debt
- We will look all eligible industries (still no passive or investments properties)
- As always, SBA/WBD underwriting will focus on management and cash flow—the ability to service *proforma* debt

Thank You!

Any Questions or
Prospect Scenarios?



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