

INFOCUS



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TABLE OF CONTENTS >

PAGE 1. Lead Off | 2. Inside the Industry | Peer Group, Portfolio Averages
 3. News & Events | 7-Things | 4. Gross Loan Approvals | Sustaining Members
 5. Feature Article | Product Spotlight | 6. Members Get It | Membership Minute
 7. Feature Article | 8. Viewpoint | Be a Winner | Event Calendar

A PUBLICATION OF THE NATIONAL ASSOCIATION OF GOVERNMENT GUARANTEED LENDERS. NAGGL Gets It.SM

Lead Off by Tony Wilkinson

109th Congress Winds Down 7(a) Loan Volume Remains Flat



The 109th Congress is in its final stage. It is widely expected that this Congress will pass another 'continuing resolution' (CR) effective through at least February—and not address much else. The work on the final appropriation bills will be deferred to the Democratic-controlled 110th Congress. Since the 7(a) and 504 programs do not require an appropriation, the CR should not impact the availability of program authority. It should simply be 'business as usual.' The CR will impact, however, the SBA's staff and travel expenses. Look for the SBA to have hiring and travel restrictions until the FY 2007 appropriation bills are finally adopted.

The 110th Congress will bring new Chairs to the Small Business Committees. Senator John Kerry (D-MA) once again will lead the Senate Committee on Small Business and Entrepreneurship. Representative Nydia Velázquez (D-NY) will head the House Small Business Committee. The Democratic members of the Senate committee are the same as this year, with the addition of Senator Jon Tester (D-MT). The Republicans have not yet named their Ranking Members or other committee members. Those assignments should be announced prior to the adjournment of the 109th Congress.

As you can see from the loan approval report later in this newsletter (p. 4), 7(a) loan volume is up in numbers year-over-year, but flat in terms of loan dollars. The trend of more small loans, less large loans is continuing into FY 2007. Loans of \$150,000 or less now make up 26 percent of the loan dollars, as compared to 23 percent in FY 2006. While we applaud the growth in the number of loans, we remain concerned

about the potential subsidy impact.

Large loans pay a disproportionately higher guarantee fee, and tend to have longer maturities. The longer maturities lead to more revenue collections for the SBA from the on-going lender fee. The small loans pay lower guarantee fees and typically have shorter maturities, leading to a lower net present value of the on-going lender fee. While the average loan size is down to approximately \$135,000, the decline could lead to subsidy issues in the very near future—even as early as the FY 2008 federal budget that will be released in February 2007.

NAGGL will continue to advocate for our proposed legislative changes that include an increase in the maximum loan size to \$3 million and an increase in the maximum guaranteed amount to \$2.25 million, keeping the maximum 75% guarantee level. By adding more large loans that subsidize the cost of the smaller loans, hopefully we can avoid the potential issue of either raising fees on program users or putting the program back on the annual appropriation cycle.

As 2006 comes to a close, we want to take this opportunity to thank each member for your continued support of the association. On behalf of all the staff at NAGGL, we extend warm wishes for a safe and joyous holiday season, and a New Year that brings peace, health and happiness. We look forward to the opportunity to serve you throughout the coming year. ♦

Inside the Industry by Karen McHugh

What If ... PLP Ninety Percent Rule SBA Interpretations Confuse Lenders



SBA requirements state that a PLP loan "may not be used to finance more than 90 percent of the actual cost of any real estate being acquired or of the capital needs for a new business." (SOP 50-10, page 342) This rule was clarified in 1998's Information Notice 5000-548—a notice that expired January 1, 1999. Lenders remain confused about the SBA's interpretation of the 90 percent financing rule, especially in relation to the definition of structure and acceptable equity sources.

Q: Is a business acquisition considered a 'new' business?

SBA A: A business acquisition results in new, unproven ownership and an increased debt burden unrelated to business operations. Therefore, if the SBA loan is approved through PLP processes, the 90 percent financing restriction is imposed for business acquisitions. (*SBA Central Office personnel's verbal interpretation at 2006*

Mid-Year and Annual Conferences.)

What if ... a borrower owns an existing business and wants to use SBA loan proceeds to purchase an identical business? For example, a dentist owns one practice and would like to expand by purchasing *another* practice using an SBA loan.

SBA A: The SBA does not consider this scenario a 'new' business since ownership skills have been proven and the deal would not be subject to the restrictions of the PLP 90 percent financing rule. (*SBA Central Office verbal interpretation in direct response to a NAGGL query.*)

NAGGL Notes: Expired Notice 5000-548 states, "new businesses include the purchase of existing businesses or the establishment of new ones."

Continued on Page 4 >

IN FOCUS™



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NEWSLETTER STAFF

News Editor, Karen (High) McHugh
Staff Writer, Jennifer O'Neill
Layout & Copy Editor, Jennifer O'Neill

EDITORIAL CONTRIBUTORS

Jennifer Brake, Lucy Gardner Davis, Karen (High) McHugh, Pam Nichols, Jennifer O'Neill, Tony Wilkinson

ART & DESIGN

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NAGGL MISSION

Serving the needs, protecting the interests, and supplying the success of government guaranteed lenders.



Peer Group and Portfolio Averages

7(a) Portfolio Lender Rating Peer Group (SBA Shares \$ Outstanding)	\$100 M or More	\$10 M - \$99.9 M	\$4 M - \$9.9 M	\$1 M - \$3.9 M	Less Than \$1 M (Active)	Less Than \$1 M (Inactive)	7(a) Portfolio Average
SBA Lender Risk Rating Components							
Past 12 Month Actual Purchase Rate	2.40	1.20	1.50	1.50	1.10	1.70	1.90
Problem Loan Rate	4.00	4.50	5.90	6.20	4.70	11.90	4.50
3 Month Change in Scores	0.20	0.30	0.30	0.30	0.70	0.20	0.30
Projected Purchase Rate	2.30	2.50	2.80	2.80	3.00	3.20	2.40
Additional Performance Ratios (Not Rating Components)							
SBPS Score Averages	174.30	173.00	170.80	171.20	169.10	168.80	173.40
Past 12 Month Actual Charge-Off Rate	1.70	1.30	2.10	2.10	2.10	3.60	1.70
Delinquency Rate	1.10	1.50	1.80	2.60	1.90	3.20	1.40
Liquidation Rate	3.4	3.60	4.90	4.40	3.30	10.10	3.70
Past-Due Rate	0.80	0.70	1.70	1.70	2.40	2.50	0.90
SBPS Score Breakdown (Not Rating Components)							
Lower Risk	41.50	45.20	40.90	40.60	39.80	39.80	42.10
Moderate Risk	44.70	40.90	41.70	41.50	42.70	38.70	43.40
Higher Risk	13.70	13.80	17.20	17.80	17.40	21.30	14.40

All data is 'as-of' September 30, 2006 and listed in percentages.

Note: Data in the Lender Portal and this summary sheet is truncated, not rounded.

Note: Please refer to the field definitions sheet in the Lender Portal for descriptions of the data. www.sba.gov/olo/lender-portal.html



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NAGGL, Inc.
P.O. Box 332
Stillwater, OK 74076
405.377.4022 (Voice)
405.377.3931 (Fax)
> naggl.org

News & Events



Procedural, Policy and Information Notices

5000-1002, 11/09/06, EPA's "All Appropriate Inquiries" Final Rule
5000-999, 10/05/06, Options for More Timely Processing of Character Determinations Available to Lenders
5000-994, 09/29/06, Changes to 504 & 7(a) Ongoing Fee Effective 10/01/2006

Visit www.naggl.org/notices for Notices from 2000 to the present.

SBA Launches New Markets Lending Initiative

The SBA launched a pilot program in October to provide financial assistance to small businesses in economically distressed urban and rural areas, or 'New Markets' that need the economic attention to get communities back on their feet. The initiative provides incentives for commercial lenders and local development organizations to make more SBA guaranteed loans in these communities.

The New Markets Lending Initiative enables Community Development Entities (CDEs) to combine the benefits of both the New Markets Tax Credit (NMTC) Program and SBA guaranteed loans to provide inner-city and rural small business owners and entrepreneurs greater access to financing and business training. (See Federal Register Vol. 71, No. 192, October 4, 2006.)

San Antonio, TX – Advanced SBA Loan Documentation and Closing – January 22-23

A two-day public custom course offered in cooperation with Guaranty Bank and taught by popular instructor David Starfield (Starfield & Smith). Advanced Diploma Program credit applies. **Register by January 5.**

Dallas, TX – Management Retreat – February 7-8

The Management Retreat is our annual event designed to meet the needs of upper management and SBA department supervisors. The facilitation-style sessions allow participants to learn from presenters, and more importantly, from one another. The retreat coincides with a board of directors meeting—a unique networking opportunity. Registration for this *members-only* event is limited to *75 lenders* (up to 2 per organization). **Register by January 16.**

Anaheim, CA – Standard Training Courses – March 5-8

Register for the first standard training event of 2007 and boost your success in the SBA 7(a) lending industry. An Underwriting Track, an Advanced Portfolio Management Track, and several other popular courses are scheduled. **Register by February 9.**

Visit www.naggl.org/training for information, or call us at 405.377.4022.

Chicago, IL – Mid-Year Technical Conference – May 8-10

It's our kind of town! The two-day conference takes place in the heart of the North Loop at the **Renaissance Chicago Hotel** (Reservations: 312.372.7200 or 800.468.3571), overlooking the river and within walking distance to great restaurants, architectural landmarks, the Magnificent Mile and the Theatre District. Pre- and post-conference training courses are scheduled. Watch naggl.org and your inbox for details.

Register online at www.naggl.org/onlinereg

Online registration with immediate and secure credit card payment processing! Members can login and register for any training course or event. A few simple clicks and your registration is done and an email confirmation is on its way to you. **Register and Win!** Be the **100th** online registrant and we'll send you a special gift.

7-Things



7-Things – Office of Capital Access Report

SBA Office of Capital Access executives updated conference attendees on the agency's recent accomplishments and goals for FY 2007.

Loan Approval Growth

The SBA approved a record number of loans in FY 2006.

National PLP Implemented

An item on the top of NAGGL members' wish list for many years was realized with the release of P.N. 5000-989 expanding the territory for PLP lenders and streamlining processes for approving PLP authority. The SBA's comments further hinted that upcoming revisions to the PLP handbook will open up PLP lending to many more 'things.'

SBA's Liquidation Portfolio

The SBA created an aggressive strategy to resolve their \$4 billion liquidation issue at Herndon. Meeting on a daily basis to review cases has led to "enormous progress."

e-Tran Success and Growth

Over \$4.8 billion worth of loans were processed via e-Tran in FY 2006. The FY 2007 goal is to have 95% of SBA loans processed by e-Tran. Paper reduction is a related goal.

Continue Centralization, Streamlining Efforts

FY 2007 will see the centralization of all 7(a) processing in Sacramento, CA and Hazard, KY phased in over several months. Liquidation for the 504 program will be centralized in Little Rock, AR and Fresno, CA. Focus on consolidation of operations will continue.

Focus on Customer Service

While expanding loan guarantee programs, the SBA aims to 'destroy bureaucracy,' focus on the customer (lenders and entrepreneurs), and create 'predictable excellent service.' Methods planned to attain these goals include the establishment of call centers staffed by seasoned personnel and an increase to 53 FTE in Herndon.

Focus on Underserved Markets

The New Market Tax Credit pilot program is one example. (See left column above. Federal Register Vol. 71, No. 192, October 4, 2006 gives details.)

Stay tuned for the next 7-Things.

> Continued From Page 2

Q: Can the 10 percent equity be made in the form of personal debt?

SBA A: The debt may be considered as equity on the business balance sheet as long as the note holder executes a standby agreement for the term of the SBA loan. (SBA Central Office personnel's verbal interpretation at 2006 Mid-Year and Annual Conferences.)

What if ... the borrower's principal(s) would like to use home equity loan (HELOC) funds to meet the required 10 percent equity injection into the business project? Is this an acceptable form of equity, even though it would not be placed on standby?

SBA A: If the personal debt can be paid from an outside source (i.e., other than business' cash flow) the scenario described would be acceptable for the 10 percent equity requirement. For example, if the spouse had income that could repay that debt or if the borrower had net rental income that could repay the debt. If HELOC payments were \$12,000 a year and the spouse made \$15,000 that would be 'really close.' If the spouse made \$20,000, that would be better. (SBA Central Office personnel's verbal interpretation at 2006 Annual Conference.)

NAGGL Notes: Expired Notice 5000-548 states, "A side loan made, or to be made, by the participating lender or any other lender cannot be used to fund the required equity injection. No part of the guaranteed loan proceeds may be used to fund the equity injection." In addition, SOP 50-10 (pages 87-88) states that equity may be provided in the following forms:

- Value of assets other than cash may be injected as equity.
- Standby debt may be provided as equity (however, it is not acceptable as the entire net worth of the applicant if the debt is coming from non-owners; plus, the standby of payment of principal and interest is required until the SBA loan is paid in full.
- Personal debt may be used as equity:
 - however, the loan analysis must address the impact on personal and business balance sheets and sources of repayment for such side loans, or
 - the applicant must demonstrate repayment ability from a source other than the business' cash flow or from reasonable withdrawals or salary (excessive withdrawals or salary must not be required to service the side loan).

NAGGL Concluding Observations

The safest course of action is to submit the loan CLP. If a lender wishes to process the loan PLP, the justification can be found in the SOP 50-10 (pages 87-88), which is the **only current document** that addresses equity requirements:

"The other instance in which borrowed funds may be deemed equity is if the applicant can demonstrate repayment ability from a source other than the cash flow of the business or from reasonable withdrawals or salary, and excessive withdrawals or salary are not required to service the side loan. 'Reasonable' withdrawals or salary

Continued In Column 3 >

Sustaining Member Spotlight

Sustaining Members dedication to the preservation of SBA loan programs has led them to make an increased financial commitment to aid the association's efforts. At each Annual Conference Awards Luncheon, we're honored to introduce these members and present new Sustaining Members with an award to commemorate their special relationship with NAGGL. At the 2006 ceremony, a record nine organizations were honored and seven were onsite.



Pictured above representing their organizations are: (L-R) Cal Regan (**Silver State Bank**), Scott Burns (**National City Bank**), Bob Beck (**Mountain West Bank**), George Harrop (**MainStreet Lender**), Tom Wallace (**SRD Corporation**), Vasu Srinivasan (**USAFil**), and Peter Morgan (**Zions Bank**). Recognized but not present were: **American National Bank** and **Huntington National Bank**.

Want to learn about the additional membership benefits that Sustaining Members enjoy? Send an email to Jennifer Brake at jbrake@naggl.org.

> Continued From Column 2

means an amount comparable to that paid to someone employed to perform the same functions and duties with the same level of responsibility and authority."

Whether *anything* will satisfy the SBA is very much an open question. Citing the SOP at the time the loan closes and tying the bank's decision to the credit report is a justifiable approach.

Lenders should know that the SBA asserts that centralized processing of all 7(a) loans in Sacramento and Hazard will provide a consistent turnaround time (a goal of six days) that will address lenders concerns about protracted CLP processing times in field offices. ♦

7(a) Gross Loan Approvals



	FY 2006, 11-24-2005		FY 2007, 11-24-2006		% Change	
	#	\$	#	\$	#	\$
7(a) Loans	12,579	\$ 1,943,852	14,407	\$ 1,940,451	14.5	-0.2
Minority	4,115	656,254	4,446	630,236	8.0	-4.0
Women	2,931	360,919	3,247	376,677	10.8	4.4
SBAExpress	8,277	424,653	10,150	507,026	22.6	19.4
PLP Loans	2,426	1,124,399	2,528	1,156,894	4.2	2.9
\$150K & Less	9,771	450,676	11,589	504,397	18.6	11.9
504 Loans	1,212	710,435	1,269	733,971	4.7	3.3

In thousands of dollars. Approval amount reflects the gross value of the loan at time of initial approval. Does not reflect cancellations or disbursements.

Feature Article by Lucy Gardner Davis

Early Defaults, Early Loan Problems Impact SBA Guarantee Purchase Procedures



What happens when a borrower goes into default or has "early loan problems" less than eighteen months after the final loan disbursement? When submitting the guarantee purchase request to the SBA, a lender faces a higher risk of repair or denial of the guarantee. Policy Notice 5000-831 defines "early default and early loan problems" as "a default or business failure that occurs either prior to final disbursement, or within eighteen months from the date of final disbursement." The notice further defines a default as a failure to make payment in accordance with the terms of the note, as well as 'events' that would place a loan in liquidation status under SOP 50-51 (2), Chapter 4 Paragraph 6. These 'events' are described in the SOP as: 1) foreclosure by a prior lienholder or a lawsuit that affects any substantial collateral; 2) a bankruptcy petition filed by or against the borrower when there is evidence that the borrower has pledged collateral that must be protected and the loan is delinquent; 3) a receiver has been appointed, an assignment for the benefit of creditors has been made, or other legal actions have been taken for the purpose of liquidating the collateral or obligors assets; or 4) all or a valu-

able part of the collateral has been abandoned by the borrower.

Therefore, if one of these things occurs within eighteen months after final disbursement or before the final disbursement, the SBA will use a "very high degree of scrutiny" (paragraph F of Policy Notice 5000-831) to determine if the loan was made in a "prudent manner." 13 CFR § 120.524 (a)(2) provides the SBA the basis to deny liability of the guarantee if "the lender has failed to make, close, service, or liquidate, a loan in a prudent manner." The SBA particularly reviews the following items in determining if a denial of liability is warranted for an early default: 1) evidence of verification of the financial information used in making the loan; 2) evidence of the borrower's injection; and 3) evidence of the use of proceeds. Additionally, PLP lenders need to provide their credit memorandum to show that a prudent lending determination was made and that the early loan default was not the result of poor underwriting. SBA policy is also based on SBA regulation 13 CFR Section 120.150, which requires that applicants be creditworthy and that the loan be so sound as to reasonably assure repayment

ability.

Verification of Financial Information

When submitting a purchase review on an early default loan, the lender must make sure that the borrower's financial information was properly verified with the Internal Revenue Service (IRS). The SBA has the discretion to deny liability when a lender fails to verify the tax returns and offers no explanation for its failure to do so.

Most SBA loans require the submission of tax returns and verification of those returns through the use of IRS Form 4506, Request for Copy or Transcript of Tax Form. According to SOP 50-10(4)(B) Subpart A, Chapter 6, Paragraph 4(f), a lender must have an applicant execute the IRS Form 4506 *as soon as the applicant appears likely to submit a loan application*. Once the IRS sends the tax transcripts to the lender, the lender must compare the transcripts with the tax returns and the financial statements submitted by the applicant to insure that there are no discrepancies in the financial picture of borrower. The lender must

Continued on Page 7 >

Get Connected



We're here to assist you. Email us your questions, problems and suggestions, or call the office at 405.377.4022.

Anthony R. Wilkinson

PRESIDENT & CEO, twilkinson@naggl.org

Karen (High) McHugh

EXECUTIVE VICE PRESIDENT & COO, kmchugh@naggl.org

Jennifer Sterrett-O'Neill

ASSISTANT VP, COMMUNICATIONS, joneill@naggl.org

Jennifer Brake

ASSISTANT VP, MARKETING, jbrake@naggl.org

Cheryl Stone

VICE PRESIDENT, CONFERENCES, cstone@naggl.org

Susanne Queen

VICE PRESIDENT, EDUCATION, squeen@naggl.org

Pam Nichols

EXECUTIVE ADMINISTRATIVE ASSISTANT, pnichols@naggl.org

Valerie Lacy

MEMBERSHIP & EDUCATION SUPPORT ASSISTANT, vlacy@naggl.org

Product Spotlight



SOP 51-00: On-Site Lender Reviews/Examinations

Get Informed. The SBA recently released a new SOP that defines the on-site risk-based review and establishes the procedures for such reviews conducted on 7(a) lenders and CDCs, as well as for the more comprehensive safety and soundness examinations of SBA Supervised Lenders. The SOP contains separate guidance and procedures for 7(a) lenders and CDCs, and replaces previously published written procedures.

Member Published Price: \$55

Sale Price: \$45

Special pricing available through December 31.

Product catalog > www.naggl.org/products.

Members Get It by Pam Nichols

Team Effort Makes Annual Conference Run Smoothly



Every year a huge team effort is needed to ensure that everything runs smoothly onsite at the Annual Conference. This year's event was no exception. Fortunately, we have a big team of willing volunteers who operate slide shows during sessions, handle microphones during Q&A, introduce speakers, and assist in many other ways. Thanks to everyone for making the 'Road Trip to Success' run like a high-performance car!

- **Dustin Baker**, BMC Capital
- **David Bartram**, US Bank
- **Brian Burke**, CIT Small Business Lending
- **Tom Burke**, Wells Fargo
- **Roxann Burns**, Greater Bay Bank
- **Jane Butler**

- **Tina Caronna**, Cantor Fitzgerald
- **Larry Conley**, JPMorgan Chase Bank
- **Michele Courneya**, Starfield & Smith
- **Ken Dennis**, Guaranty Bank
- **Terri Hudson**, Pacific Coast National
- **Julie Huston**, MainStreet Lender
- **Lesley Lang Lopez**, Central Valley Community Bank
- **Keith McLaughlin**, Bank of Missouri
- **Davina Palazzo**, Coast National Bank
- **David Starfield**, Starfield & Smith
- **Joe Smith**, American Business Lending
- **Chuck Sullivan**, Sterling Bank
- **Joanne Thompson**, SBA OneSource
- **Gary Youmans**, Pacific Western National Bank

Don't miss the photos from the conference at www.naggl.org/06acphotos. ♦

Membership Minute by Jennifer Brake

Catch a "Rising Star" — New Reward Program for Low Volume Lenders



Do you have a young professional on staff that you believe is 'going places'? Someone whose outstanding performance has 'wowed' you, or someone who's clearly emerging as a mover and shaker in your organization? NAGGL's new "Rising Star" program can help you recognize their achievements while investing in their future—and in the future of your SBA lending practice.

Designed for member-organizations making 10 or fewer 7(a) loans, the "Rising Star" program allows an organization to reward an up-and-coming young professional—or staff new to SBA lending—with the industry's best training at a special rate. Any business in the 10 or fewer loans membership category is invited to nominate an individual to receive a substantial discount on all fundamental lender diploma courses taken over a three-year period.

In January, nomination forms will be mailed to each member of record at organizations that made 10 or fewer 7(a) loans during FY 2006. The nomination form is your chance to reward

one "rising star" within your company. Each nominee will receive a book of \$100 coupons to be used toward registration for each fundamental diploma course—a \$600 savings!

The discounted courses are: *Understanding the SOP 50-10, SBA Credit Analysis 101, Mastering SBA Credit Underwriting Techniques, Closing and Funding the SBA Loan, SBA Servicing and Liquidation Regulations, and Critical Elements of PLP Lending.*

Each "rising star" will also qualify for discounts on our new **Emerging Lenders Retreat**, and will receive a special invitation to participate in the *Get Acquainted with SBA Lending* mini-course offered as a web-based session and during NAGGL's 2007 conferences.

Be sure to watch your mail in January. Don't miss this unique way to invest in your "rising star" today—and save big time! ♦

Questions? Contact Jennifer Brake at jbrake@naggl.org or 405.377.4022.

Member Spotlight



Each month, we introduce you to our new members and recognize those celebrating membership anniversaries.

Welcome

- Advantage National Bank, Elk Grove Village, IL
- Community Bank of the South, Smyrna, GA
- Fortune Bank, Seattle, WA
- US Metro Bank, Los Angeles, CA
- Vantage West Credit Union, Tucson, AZ

3 Years

- GTE Federal Credit Union, Tampa, FL

5 Years

- Enterprise Funding Corporation, Redlands, CA
- Preferred Capital, Wilmington, DE

10 Years

- Mountain West Bank, Coeur d'Alene, ID
- Pacific Coast Regional Corporation, Los Angeles, CA

15 Years

- International Bank of Miami N.A., Coral Gables, FL
- Sky Bank, Toledo, OH

Anniversaries may be altered due to mergers and acquisitions.

verify that it has not failed to account for an obvious fact that could likely have affected the borrower's ability to repay the loan.

If the loan was for a business acquisition, the financial information of the business to be acquired will also need to be verified through the use of a 4506 Form executed by the seller. SOP 50-10(4)(B) Subpart B, Chapter 1, Paragraph 3(c)(1) and Policy Notice 5000-693 (which is a clarification of Policy Notice 5000-677) requires that for the acquisition of a going concern, a lender must "verify the historical profit and loss statements of the business for the last two years." If a lender cannot provide an executed 4506 and tax transcripts for the seller in their purchase request since an alternate form of financial verification was used, the lender's guarantee may still be protected. Policy Notice 5000-693 states that if a seller's financial information cannot be verified through the 4506 process, a lender can use other methods. The notice gives one example of using the sales tax paid to a state for retail businesses. If an alternative method of verification is used, the lender must identify the source of the verification. (P.N. 5000-693)

Borrower's Injection

The lender will also need to submit acceptable evidence to show its verification that the borrower injected all of the required cash into the business or that all of it was injected prior to disbursement of the loan, as required by the Authorization. If there is not sufficient evidence of the injection, and there is an early default or early loan problems, the SBA will assume that there is a "direct link" between the failure of the business and the lack of the injection. The SBA will also take into consideration the amount of the injection compared to the size of the loan. Policy Notice 5000-831 gives a very detailed description of the items necessary to fulfill the injection requirement. For a cash injection, a lender should provide a bank account statement from the borrower dated prior to the loan disbursement that shows the money was available in the borrower's account. In addition, if the injection was to be used as a part of the closing, the lender should not only provide evidence of the source of the injection, but also provide copies of the check (front and back) that the borrower

brought to closing, or a copy of the wire if that is more appropriate to the transaction.

If the required injection is an asset injection, then the lender should have a list of the assets with a third party valuation done *prior* to the loan disbursement. If this is not possible, the lender should provide invoices that show that the assets were purchased prior to the loan disbursement with a copy of the check (both sides) to the vendor for the assets.

Verification of Use of Proceeds

The SBA Form 1050 Settlement Sheet must be filled out and executed by the borrower and lender for each disbursement made on the loan. In addition to the completed Form 1050, the lender must provide documentation to show that the proceeds were used in accordance with the loan proceeds. This evidence can be shown through the use of joint payee checks. If a wire is used to disburse the funds, a lender should provide a copy of the wire with a HUD-1 or some other form of closing statement executed by the escrow agent. If the proceeds were used to purchase assets, the lender should provide the SBA with a copy of invoices that are supported by a wire to the vendor or a joint payee check to the vendor. If a joint payee check was not used and the proceeds were distributed directly to the vendor, the lender should provide a copy of the executed Form 1050 along with the paid invoice from the vendor, and a copy of the wire or check to the vendor (front and back to show that the check has cleared).

Credit Memorandum

The SBA has delegated to PLP lenders the authority to determine whether a borrower is creditworthy under the standards applied to all 7(a) loans. (SOP 50-10 (4)(E), Subpart D, Chapter 3, Paragraph 8). Therefore, for all guarantee purchase reviews involving a PLP loan that has gone into early default, SBA policy requires an SBA review of the lender's credit memorandum and supporting documentation to determine whether any deficiency by the lender contributed to the early default or failure of the business. The SBA will review these items to insure that the PLP lender was not clearly negligent in its underwriting and used prudent lending standards to

evaluate the borrower's repayment ability. SBA Policy Notice 5000-831 further states that a denial based upon a PLP lender's underwriting may be appropriate if: 1) a PLP lender failed to comply with an SBA lending requirement when making or closing the loan, which placed the agency at financial risk; or 2) the lender was clearly negligent by failing to account for an obvious fact that could likely affect the borrower's ability to repay the loan. The notice gives two examples: 1) the borrower's projected expenses greatly exceed projected revenues; or 2) the lender made a loan to a start up business without comparing projected revenues against an industry standard or some other reliable measure.

It is very important that lenders prepare for the guarantee purchase *before the SBA loan is even made*. No lender likes to believe that the loan they make will ever go into default, but it is essential to the protection of the SBA guarantee that lenders take steps during the underwriting and closing process in case the loan ever goes into default and it becomes necessary for the SBA to purchase the guarantee. A good beginning point in getting a lender's underwriting and closing procedure in line with the SBA guarantee purchase procedure is to visit the National Guaranty Purchase Center website and download the guarantee purchase package checklist and the accompanying help sheet at sba.gov/banking/ngpc/guaranty.html or naggl.org/resources. These two documents can be used as a guide in preparing the underwriting and closing checklist for the lender's SBA loan. ♦

This article was written in conjunction with the NGPC Legal Department. (www.sba.gov/banking/ngpc/)

Davis is an attorney for the law firm of Thompson & McMullan in Richmond, Virginia. Prior to entering private practice, Davis served as the assistant district counsel for the SBA Richmond District Office for over seven years. She was responsible for conducting guarantee purchase reviews and has spent time working on guarantee purchase reviews for the National Guaranty Purchase Center.

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Viewpoint

Survey Question of the Month

The SBA experienced a single-year record for the total number of loans in the 7(a) and 504 programs in FY 2006, and 504 loans reached a record dollar amount (\$5.61 billion).

Please describe *your* organization's FY 2006 SBA lending growth—or lack thereof—and detail the factors contributing to this result. For instance, was a particular product ('regular' 7(a), *SBAExpress*, 504) most responsible for the growth? Did your institution's regular 7(a) activity increase at an acceptable rate? Why or why not? Please be as specific as possible.

Get Involved. Respond to Jennifer Brake at jbrake@naggl.org to be placed in a drawing to win a copy of December's Spotlight Product (the new SOP 51-00 in an attractive binder)!

Be a Winner

Online Registration Nets Nifty Prize

NAGGL launched a new member service at the beginning of September—online event registration with immediate and secure credit card processing at www.naggl.org/onlinereg. This members-only registration option eliminates the need to print and complete a hard-copy registration form for faxing. With online registration, a few simple clicks completes your registration and sends an email confirmation on its way.

Get It. You can get in on the action. Simply be the **100th member to register online** for any training course or event, and we'll send you a special gift.

www.naggl.org/onlinereg

Calendar of Events

WEBExpress Training Without the Travel

- December 14, Annual Regulation Review

Public Custom Training

- January 22-23, San Antonio, TX
Advanced SBA Loan Documentation and Closing, Co-sponsored by **Guaranty Bank**

Standard Training

- March 5-8, Anaheim, CA
Underwriting, Advanced Portfolio Management Tracks plus other popular courses

Special Events

- February 7-8, Dallas, TX
Management Retreat
(Open to lending members only)
Space is limited to 75 participants

Get details at www.naggl.org/training.

Register online > www.naggl.org/onlinereg