



SMALL BUSINESS ADMINISTRATION

[Docket No. SBA-2023-0012]

13 CFR Part 120

ALP Express Pilot Program

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notification of ALP Express Pilot Program.

SUMMARY: SBA is introducing a new pilot loan program (ALP Express Pilot) to provide to Certified Development Companies (CDCs) participating in the Accredited Lenders Program (ALP) increased delegated authority for 504 loans of \$500,000 or less. These increased delegated authorities (ALP Express authority) were previously authorized under the Economic Aid to Hard-hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), but they expire on September 30, 2023. SBA will evaluate the use of the ALP Express Pilot and will make a recommendation to Congress as to whether these increased authorities should become permanent. SBA will limit the number of ALP Express Pilot loans to not more than fifteen percent (15%) of the total dollar amount of 504 loans made in any fiscal year.

DATES: *Availability date:* The ALP Express Pilot is available on October 1, 2023, and will remain in effect for up to two years, but not to extend beyond September 30, 2025.

Comment date: Send comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SBA docket number SBA-2023-0012, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/>. Follow the instructions for submitting comments.
- Mail: Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

- Hand Delivery/Courier: Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

SBA will post all comments on <https://www.regulations.gov>.

If you wish to submit confidential business information (“CBI”) as defined in the User Notice at <https://www.regulations.gov>, please submit the information to Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; or send an email to gregorius.suryadi@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination as to whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration at (202) 205–6806 or gregorius.suryadi@sba.gov. The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission’s TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

1. Background

The 504 Loan Program is an SBA financing program authorized under title V of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 695 et seq (Small Business Investment Act). The core mission of the 504 Loan Program is to provide long-term financing to small businesses for the purchase or improvement of land, buildings, and major equipment, to facilitate the creation or retention of jobs and local economic development. Under the 504 Loan Program, loans are made to small business applicants by Certified Development Companies (“CDCs”), which are certified and regulated by SBA to promote economic development within their community. In general, a project in the 504 Loan Program (a “504 Project”) includes: A

loan obtained from a private sector lender with a senior lien covering at least 50 percent of the project cost; a loan obtained from a CDC (a “504 Loan”) with a junior lien covering up to 40 percent of the total cost (backed by a 100 percent SBA guaranteed debenture); and a contribution from the Borrower of at least 10 percent equity.

There are three types of CDCs that participate in the 504 Loan Program. This notification relates to the temporary increased delegated authority that was granted, in accordance with section 328(b) of the Economic Aid Act, to CDCs that are approved by SBA to participate in the Accredited Lenders Program (hereafter “ALP CDCs”), which is authorized under section 507(a) of the Small Business Investment Act. Under section 507(c) of the Small Business Investment Act, SBA is authorized to develop an expedited procedure for processing a loan application or servicing action submitted by ALP CDCs. 15 U.S.C. 697d.

Prior to the Economic Aid Act, ALP CDCs were required to obtain SBA’s approval to make a 504 loan, including with respect to both the loan’s eligibility and creditworthiness. With respect to closing, ALP CDCs only had delegated authority to make certain “No Adverse Change” certifications prior to loan closing without SBA’s review and approval, and were authorized to close 504 loans under the expedited loan closing procedures applicable to a Priority CDC. Further, ALP CDCs were required to obtain SBA’s approval for most servicing actions.

The ALP Express Pilot will temporarily provide increased delegated authority to ALP CDCs with respect to loans made under ALP authority (hereafter referred to as “ALP Express Pilot Loans”). Although ALP CDCs have had the option to use these new delegated authorities since the publication of the interim final rule implementing section 328(b) of the Economic Aid Act, they expire on September 30, 2023. 87 FR 37979 (June 27, 2022). The ALP Express Pilot’s new delegated authorities represent a continuation of the ALP Express authority provided by the Economic Aid Act, which themselves are the most substantial changes to an ALP CDC’s authority to approve, authorize, close and service loans made under ALP authority since the onset of the Accredited Lender’s Program, while also incorporating new elements. For the ALP

Express Pilot SBA has declined to include the prohibition in section 328(b) of the Economic Aid Act against making loans with ALP Express authority to a borrower in an industry with a high rate of default (defined as an industry that for the past 5 fiscal years has 50 or more approvals per year and an annualized default rate of 5% or above) because SBA has determined there are no industries with a high rate of default in the 504 program based on prior SBA 504 portfolio performance. Further, as of May 11, 2023, SBA instituted a technology compliance check on all loans, including those with ALP Express authority, and streamlined the affiliation policy guidance that reduces the amount of paperwork required for submitting loan packages. As these changes are recent the ALP Express Pilot will enable SBA to season the ALP Express Pilot and observe the impact of these recent changes.

Under the ALP Express Pilot, SBA will delegate to ALP CDCs the authority to make the final decision with respect to the applicant's creditworthiness on ALP Express Pilot Loans. SBA continues to be responsible for reviewing each loan to ensure that it meets all Loan Program Requirements for program eligibility.

SBA will delegate to ALP CDCs the authority to approve certain servicing actions after closing on ALP Express Pilot Loans. ALP CDCs must promptly notify the appropriate SBA servicing center of their approval of any servicing action on ALP Express Pilot Loans. SBA will consider prompt notification to be within five (5) business days of approval. Finally, SBA will delegate to ALP CDCs the responsibility to undertake all actions necessary to close the ALP Express Pilot Loan and Debenture in accordance with the expedited loan closing procedures applicable to a Priority CDC and with 13 CFR 120.960.

In their own discretion, ALP CDCs may decide not to exercise their delegated authority with respect to an ALP Express Pilot Loan and may instead submit the loan to SBA under nondelegated procedures. ALP CDCs may not use their ALP Express authority to service a loan that was approved under non-delegated authority that could have been made as an ALP Express Pilot Loan. In addition, PCLP CDCs may decide to process an ALP Express Pilot Loan under

their status as an ALP CDC instead of as a PCLP CDC, thereby not requiring the CDC to comply with Loan Loss Reserve Fund requirements for that loan.

In making, closing, servicing, or liquidating an ALP Express Pilot Loan, CDCs must follow all Loan Program Requirements under the 504 Loan Program. This includes the loan closing and disbursement procedures in SOP 50 10 7 and the servicing and liquidation requirements in 13 CFR 120.535, 120.536, 120.540, 120.842 and 120.960, as well as SOP 50 55.

To implement this ALP Express Pilot Program, SBA is relying on 13 CFR 120.3, which permits the SBA suspend, modify, or waive rules for a limited period of time to test new programs or ideas. SBA wishes to implement this pilot to evaluate the use of this increased delegated authority by ALP CDCs and to identify opportunities for further modification.

For further guidance on ALP Express authority, see the Economic Aid Act and the ALP Express Pilot Program Guide.

2. Application Terms and Conditions and Forms

CDCs must use the application forms required for current 504 loan processing and execute an SBA Terms and Conditions document for each ALP Express Pilot Loan, as set forth in SOP 50 10 7. For further guidance on the SBA Terms and Conditions and the required forms, see SOP 50 10 7 and the ALP Express Pilot Program Guide.

Reporting Requirements

CDCs must document on SBA Form 1244 (by checking the ALP Express box on page 12) whether the ALP CDC is using its ALP Express authority when submitting an application for an ALP Express Pilot Loan. This will allow SBA to track ALP CDCs' use of this increased delegated authority. CDCs must also continue to comply with the reporting requirements in 13 CFR 120.830.

Lender Oversight

ALP CDC oversight procedures shall follow the requirements set forth in 13 CFR part 120—Subpart I and SOPs 50 53 (Lender Supervision and Enforcement) and 51 00 (On-Site

Lender Reviews and Examinations). The SOPs can be found at: <https://archive.sba.gov/tools/resourcelibrary/sops/index.html>. ALP CDCs will be monitored both for performance and other risk characteristics as well as for compliance with the requirements of the ALP Express Pilot Program. The ALP CDC must maintain compliance with the requirement that it only makes ALP Express Pilot Loans in an amount of \$500,000 or less, along with all other Loan Program Requirements. ALP CDCs also will be subject to 13 CFR 120.1400 through 120.1600 and the provisions of SOP 50 53 concerning supervision and enforcement.

Evaluation Criteria for ALP Express Pilot

SBA is reviewing the following data related to ALP CDCs and their use of ALP Express authority and will use the same evaluation criteria for the ALP Express Pilot:

- 1.) Did the number and/or percentage of 504 loans in the portfolio under \$500,000 increase as a result of the availability of ALP Express authority?
- 2.) How do the default rates of ALP Express loans compare with similarly sized loans not processed and serviced using this authority?
- 3.) Did ALP Express loan approvals and servicing turn times improve, resulting in enhanced customer service?

For data collections to evaluate the effectiveness of this pilot, SBA will use ETran, SBA's electronic system for loan submission and servicing.

Authority: 13 CFR 120.3.

Isabella Casillas Guzman,
Administrator.

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