

NADCO TechBriefs

CARES Act Updates

May 15, 2020

NADCO is sharing important CARES Act updates.

COVID-19 AGREEMENT

NADCO has been and will continue to advocate on CDCs' behalf with SBA, and we understand the need for timely guidance for loans funding in June and beyond. Information in prior notices led many to believe that only loans approved prior to March 1, 2020 were required to use the COVID-19 Agreement when closing 504 loans for funding in April, May, and June. However, SBA has clarified that if a business has experienced a substantial adverse change in financial condition specifically related to the COVID-19 crisis and wishes to close and fund a 504 loan, a COVID-19 Agreement **must** be used **regardless** of when the 504 loan was approved (applies to loans approved before **and** after March 1, 2020).

NADCO has recommended that SBA continue use of the COVID-19 Agreement for bond sales in July, August, and September and has recommended changes to the Agreement form to allow flexibility in setting deferment terms on both the 504 Loan and the Third Party Loan – i.e. inserting checkboxes so that the parties can proactively select a 3-month deferment, a 6-month deferment, or even no deferment so the 504 Loan can immediately begin receiving CARES Act Section 1112 Payment Subsidies for six months. SBA leadership is reviewing recommendations from NADCO as well as other parties, and updated guidance is expected soon.

SBA-PURCHASED DEBENTURES

SBA has provided NADCO with updated information and clarity regarding SBA-purchased debentures. NADCO has been informed that SBA is sending individual letters to all borrowers in this situation with detailed information about their status and instructions for moving forward. **The information below applies to businesses that are still in business with an SBA-approved workout plan –**

- SBA will not be placing these loans on deferment through December 31, 2020 as previously announced in Procedural Notice 5000-20012
- SBA will provide these borrowers with 6-months' CARES Act Section 1112 Payment Subsidies as referenced in Procedural Notice 5000-20023, paragraph J, beginning with the Next Installment Due
- Payment Subsidies can be made retroactive to the borrower's April 2020 payment
 - If the Borrower has already made April or May payments, the borrower can specifically request a refund of those payments if they choose
 - Otherwise, the 6-months' Payment Subsidies will begin with the Next Installment Due
- Payment Subsidies cover regular monthly payments as outlined in original loan documents; the borrower is still responsible for all catch-up obligations while receiving CARES Act Section 1112 Payment Subsidies
- Borrowers set up for automatic payments on pay.gov will need to stop those Preauthorized Debits (PAD) by contacting the servicing center or pay.gov

- **IMPORTANT REMINDER** – Borrowers with SBA-purchased debentures where the business is no longer operating **will not receive** Payment Subsidies **and** must continue making regular payments as scheduled.

CARES ACT SECTION 1112 PAYMENT SUBSIDIES

NADCO has confirmed with SBA that all loans closed and funded by September 27, 2020 will receive six months of CARES Act Section 1112 Payment Subsidies **regardless** of when the loan was approved. Loans approved before **and** after March 27, 2020 will receive payment subsidies provided the loan closes and funds prior to September 27, 2020.

As a general reminder, if a 504 loan in regular servicing has been placed on deferment, the CDC and Borrower can request to rescind the deferment to possibly take advantage of any CARES Act Section 1112 Payment Subsidies.

CDCS AS AN APPLICANT TO RECEIVE A PPP LOAN OR EIDL LOAN

NADCO has confirmed with SBA that CDCs are **not** eligible to apply for a PPP loan or an EIDL loan. Although non-profit entities are to varying degrees eligible for PPP and EIDL, SBA has determined that CDCs as financial institutions primarily engaged in lending are ineligible and cannot apply for SBA-guaranteed loans.