SBA Procedural Notice

TO:	All Employees	**CONTROL NO.:**	5000-1013
SUBJECT:	Technical Assistance Requirements Under the CommunityExpress Program	**EFFECTIVE:**	2/15/2007

Introduction

The SBA views management and technical assistance (T/A) as critical to the development and success of borrowers, particularly under the CommunityExpress program. Under CommunityExpress, borrowers receive appropriate pre- and post-loan closing management and technical assistance, which is to be arranged and, when necessary, paid for by the CommunityExpress lender. The SBA's standard 75-85 percent loan guaranty (which contrasts with SBAExpress's 50 percent guaranty) was applied to the program in part to help offset some of the lenders' expense associated with the T/A requirement. This notice provides additional guidance on the Agency's requirements relative to the T/A component.

Technical Assistance Requirements

The amount and type of T/A required by the CommunityExpress borrower will generally depend upon the maturity of the business and the principal's business experience, particularly the principal's experience with the type and size of business for which the loan is to be used. Many of the CommunityExpress applicants will be new or start-up businesses, often with principals of limited business experience and/or located in distressed markets, and they will face unique challenges that likely only can be overcome by T/A tailored to their specific needs.

Under the CommunityExpress program, participating lenders must ensure that an SBA approved (generally by the local SBA District Office) T/A provider clearly identifies the T/A needs of the CommunityExpress applicant and develops and implements an appropriate T/A plan. The T/A provider must assess the applicant's management and technical strengths and weaknesses and then create a technical assistance plan tailored to the needs of the applicant.

The management assessment must be substantive and designed to identify the applicant's significant management or business weaknesses and needs; a cursory self assessment would not be considered adequate. Lenders may use a management assessment format developed by their local district office or other SBA resource, if one is available, or a comparable approach to document the assessment. General topics to be considered by such an assessment could include:

- Pre-business/start-up assistance
- Business plan
- Marketing/sales
- Strategic planning
- Accounting/bookkeeping
- Financial analysis/cash flow
- Computers/software
- Business engineering

- Export assistance
- Personnel/human resources

For start-up businesses, SBA expects that the management assessment would generally regard a business plan tailored to the specific applicant as crucial, particularly where future cash flows are being considered in the business's repayment ability. However, the Agency recognizes that under certain circumstances, such as the purchase or replacement of operating equipment, or very small loans (under $10,000), a full business plan may be unnecessary. SBA expects that such circumstances will be infrequent, and the lender must document the circumstances in the loan file. (SBA would not consider the size of the loan alone to be adequate to preclude the need for a full business plan.)

Based on the management assessment and the business plan, the T/A provider must develop a recommended T/A plan. The T/A plan must note the applicant's significant management and/or business weaknesses, appropriate types of assistance to correct those weaknesses, sources of that assistance, and milestones identifying the dates when each element in the T/A plan must be completed and by whom or which resource. SBA expects the borrower's technical assistance needs to dictate the nature and length of the T/A provided, although SBA would generally envision that the T/A would be provided over the course of several months. If substantially less time or assistance is required, SBA requires that the lender document such circumstances in the loan file. Additionally, as discussed more fully below, the lender must exercise appropriate and reasonable diligence to ensure that the borrower and the T/A provider follow up and complete the milestones identified in the T/A plan.

The management assessment, the business plan (as appropriate), and the T/A plan generally must be developed before the CommunityExpress loan can be disbursed, although under unusual circumstances, they may be completed after the disbursement. (For example, if an applicant needed to replace a critical piece of equipment that had failed in order to continue to operate and generate revenue.) The Agency expects that these unusual circumstances will be infrequent, and they must be documented by the lender in the loan file.

Lender Responsibility for Follow-up with the Borrower

The lender will be expected to ensure the T/A provider completes the management assessment, a business plan (as appropriate) and a T/A plan (collectively, the T/A documents). (As noted below, SBA will finalize these projected document requirements and issue additional guidance in the near future.) The lender will be expected to ensure that these three components/documents are completed before the loan is disbursed, unless unusual circumstances exist as noted above, and that the borrower is provided a copy of each. The lender must explain to the borrower the purpose and content of the T/A documents as well as emphasize their critical importance to the loan approval process. Finally, the lender and/or T/A provider must also follow up to strongly encourage the borrower's completion of each milestone in the T/A plan.

The SBA believes that a strong emphasis by the lender to the applicant, both pre- and post-loan approval, on the importance of the T/A in the loan decision, and that it is an SBA requirement, will generally ensure appropriate borrower follow-up.

The SBA understands, however, that despite diligent follow up by the lender to reinforce the T/A requirement, some borrowers may be less inclined to fulfill the T/A requirements/milestones.

Nevertheless, the Agency does require a diligent and good faith effort by the lender and the T/A provider to ensure the borrower receives the required T/A. If that effort is not completely successful, the Agency requires that lenders document in their loan file their efforts to require the borrower's conformance with the T/A requirement. This documentation could include, for example, copies of correspondence to the borrower in which the lender strongly states that completion of the T/A plan was a required part of the loan approval process. SBA will not view a single or routine form letter to the borrower advising the borrower of the availability of the T/A as adequate to meet SBA's requirements.

SBA District Offices Can Be Instrumental in Facilitating Lenders' Technical Assistance Relationships

The responsibility of arranging for, and when necessary paying for, the T/A under CommunityExpress rests with the participating lender. However, the local SBA District Office (resources permitting) can be instrumental in the lender's delivery of an effective program of technical assistance under CommunityExpress. District Office personnel can assist lenders in identifying and assessing local T/A providers, and they can help lenders develop effective relationships and agreements with capable T/A providers. Additionally, the local District Office must approve the T/A provider agreement between a lender and a local T/A provider before the lender can begin processing CommunityExpress loans in that district. In many instances, and particularly for very small CommunityExpress loans, SBA's technical assistance resource partners (e.g., SCORE, SBDCs, WBCs) can be key to delivering quality T/A in a cost effective fashion. SBA District Offices are in a unique and critical position to help facilitate a lender's access to and utilization of these resources. Also, the local SBA District Office is critical to the Agency's monitoring of the quality of the T/A provided to borrowers under CommunityExpress and can play a key role in ensuring borrowers are not enticed into inappropriately paying for T/A. (Additionally, as discussed further below, the SBA District must approve any instance where a CommunityExpress borrower is to pay for T/A.) The SBA District Office must also ensure the use of SBA's T/A resource partners is appropriate and does not conflict with existing district office resource requirements and/or agreements.

Required Lender Technical Assistance Documentation

T/A Provider Agreement

Each CommunityExpress lender must document its T/A assistance relationship(s) in each SBA district in which it plans to make CommunityExpress loans by executing an agreement between the lender and the local technical assistance provider(s). As previously stated, the local SBA District Office must approve each T/A provider agreement. (Examples of T/A provider agreements are available from the Offices of Capital Access and Entrepreneurial Development in Headquarters.) The lender must retain a copy of the T/A provider agreement and forward a copy to the local SBA District Office and the Sacramento PLP Center. The signed agreement must be received by both the local SBA office and the Sacramento PLP Center before the Center will approve CommunityExpress loans in a particular district.

Borrower T/A Documents

The lender must also keep a copy of the management assessment, the business plan (where required, as noted above), and the T/A plan for each CommunityExpress borrower in the borrower's loan file. The lender must also track the T/A progress for each CommunityExpress

borrower in the borrower's loan file. At a minimum, the T/A progress tracking should include a periodic brief assessment of the borrower's business status and a brief summary of the T/A provided to the borrower over the course of the provision of the T/A. (SBA would generally consider quarterly reporting to be adequate, although specific borrower circumstances or needs may dictate a greater or lesser frequency, but lenders would be expected to document the reason for less frequent reporting.) The summary of the T/A provided could briefly describe each counseling or training session provided to the borrower or it could summarize the assistance provided to the borrower during the reporting period. These T/A progress summaries will generally be prepared by the T/A provider. In the case of SBA's T/A resource partners, the summaries may consist of SBA Form 641, Small Business Development Center Counseling Record, and/or SBA Form 888, Management Training Report or other SBA approved technical assistance documentation. (SBA in the near future will revise and finalize projected CommunityExpress document requirements and issue additional guidance in accordance with Paperwork Reduction Act requirements and following discussion, review, and approval by OMB.)

Other documentation a lender may want to obtain and keep includes a borrower authorization permitting the lender and the T/A provider to exchange relevant information concerning the loan applicant's operation, loan performance, etc. and a hold harmless agreement on behalf of the lender and/or T/A provider. Also, as noted above, the lender must maintain in the loan file copies of all correspondence from the lender encouraging the borrower's attention to the T/A requirements, as appropriate.

At SBA's request, Lenders may also be required to provide summary information to SBA about the T/A provided to their CommunityExpress borrowers.

SBA Review of Lender T/A Documentation

Guaranty Purchase

As part of SBA's consideration of any CommunityExpress guaranty purchase request, SBA will require that the lender submit a copy of the T/A assessment, a copy of the T/A plan, and a succinct summary of the assistance provided by the T/A provider, in addition to documentation concerning eligibility and other aspects of the loan reviewed in the guaranty purchase process. In situations where the borrower failed to follow up and receive the required T/A, the lender must provide documentation showing its or the T/A provider's efforts to ensure the borrower received the T/A. If the lender cannot provide any documentation showing the T/A was provided or strongly encouraged to a borrower, or if the purchase review package reveals that the lender failed to arrange for, pay for, and/or follow up to ensure the borrower received appropriate T/A, then the SBA may deny liability on the guaranty in full or in part as a result.

Lender Oversight Activities

SBA will review the lender's T/A documentation as part of its lender oversight activities. SBA's findings concerning the lender's T/A documentation will be included in its assessment of a lender and may impact the lender's ability to participate in the CommunityExpress program.

CommunityExpress Borrowers May Not Be Charged for Technical Assistance

Except for very minor or incidental supply/material fees, such as might be associated with a SCORE or SBDC workshop, borrowers are not to be charged for the T/A provided under the CommunityExpress program within one year after the approval of the loan by SBA.

However, SBA recognizes that under certain limited circumstances, which must be approved in advance by the local SBA District Office, a borrower requiring a highly specialized form of technical or management assistance that is not routinely offered by the lender's existing T/A provider may be charged reasonable costs for the specialized T/A. (For example, a borrower could have a product design problem or flaw that could only be reengineered by a specialized engineering firm, which wouldn't normally be available from a traditional T/A provider.) Under those circumstances, which are expected to be very limited, on a case-by case basis the senior economic development official in the local SBA District Office is authorized to approve a referral to an alternative T/A provider that may charge the borrower for the specialized T/A. However, the approving SBA official must ensure that such a referral is fully warranted and appropriate, that the borrower is fully informed both of the reasons why such a referral is required, and of the estimated charges for the assistance. In addition, the approving SBA official must ensure that there is no real or apparent conflict of interest resulting from any relationship between the lender and the alternative T/A provider. SBA's approval of such limited specialized assistance must be documented in the lender's loan file.

Questions regarding this notice may be forwarded to Charles.Thomas@sba.gov or (202) 205-6656.

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Michael W. Hager
Associate Administrator
for Capital Access

Expires: 2/1/2008