

# 2

## *Closing the 504 Loan*

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## **Closing responsibilities**

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### **Certified Development Company**

- Track progress of the 504 project.
- Close as soon after project completion as possible.
- Follow procedures to make any final changes to the *Authorization for Debenture Guarantee (SBA 504 Loan)*. Any amendments must be submitted to the Sacramento Loan Processing Center (SLPC) and approved prior to submitting the Closing Package to SBA District Counsel.
- Schedule closing to meet funding deadlines.
- Close 504 Loan in accordance with requirements of the *Authorization for Debenture Guarantee* and 504 Loan Program Requirements.
- See that all closing documentation is complete and accurate.
- Forward the Closing Package to the SBA District Counsel.
- Forward certain documents directly to COLSON to meet the scheduled funding date deadlines.

### **SBA District Counsel**

- Review Closing Package.
- Final check for accurate completion of documents to be forwarded by CDC to COLSON for funding.
- Final check for complete and correct signatures on documents to be forwarded by CDC to COLSON for funding.
- SBA District Counsel sends an e-mail to Colson and CDC approving the Closing Package and authorizing the funding of the 504 Loan for the upcoming debenture sale; the CDC then sends the applicable documents to COLSON via overnight courier or mail with tracking capability prior to the cutoff deadline.

## **Overview of the closing process**

### *Fundamental steps*

**Step 1** The CDC closes the 504 Loan in time to meet a specific debenture funding date. At the time of closing, the project must be complete (except funds put into a construction escrow account to complete a minor portion of the project as specified in SOP 50-10(5)), and any final changes to the *Authorization for Debenture Guarantee* must be approved by SLPC. CDCs should note that SOP 50-10(5) is being revised every 6 months and should be reviewed as needed. Changes in references resulting from SOP revisions will be reflected in the next edition of the CSA manual.

**The timing process to meet the debenture funding date begins here.**

**Step 2** The CDC sends its Closing Package to SBA District Counsel. All documentation to satisfy the requirements of the Authorization must be in place.

**Each SBA District Counsel sets deadlines for submission of Regular and Expedited Closing Packages. If your SBA District Counsel has not set a deadline, then the deadline for submission to SBA District Counsel is 29 days before debenture funding.**

**Step 3** The SBA District Counsel reviews the Closing Package and notifies COLSON and CDC via e-mail that the 504 Loan is approved for debenture funding.

**Step 4** The CDC then forwards certain documents needed for the debenture funding directly to COLSON using a transmittal letter or spreadsheet.

The documents are:

- (1) the ACH Debit Form with the original voided check
- (2) the IRS W-9 Form
- (3) the Third Party Lender participation fee (unless deducted from the CDC's processing fee)
- (4) the original Debenture
- (5) the original Servicing Agent Agreement
- (6) a copy of the Note
- (7) a copy of the e-mail from SBA District Counsel approving the Closing Package.

**These documents must be sent to COLSON when the Closing Package has been approved by your SBA District Counsel.**

**Documents from the CDC are due at COLSON 22 calendar days before debenture funding. SBA publishes the cutoff dates in a yearly calendar.**

**Step 5** After debenture funding, the CDC completes the Note, Servicing Agent Agreement and Debenture, and sends those with the other closing documents to the applicable SBA Commercial Loan Servicing Center (CLSC).

## **Closing documents the CDC sends to COLSON**

*Documents the CDC sends directly to COLSON*

1. Forms to set up an automatic debit for the borrower's monthly 504 Loan payment.

### **ACH Debit Form**

- **From the account for the monthly 504 payment withdrawal**
- **Information must be accurate and complete**
- **Must be signed by an individual authorized to sign on the account**

### **Voided check**

- **Information on the check must match the ACH Debit form**
- **A photocopy of a voided check is acceptable**
- **A deposit slip is NOT acceptable**

2. The Third Party Lender's participation fee is required if any portion of the Third Party Loan is secured in a senior lien position to SBA.

- **Check made payable to "COLSON" or "SBA"**
- **Borrower name**
- **SBA Loan Number**
- **Funding date**
- **Third Party Loan amount**
- **Amount of fee enclosed**
- **Method of fee payment**

**See Chapter 3 pages 25 and 26 for a sample transmittal letter and transmittal form.**

## **Closing documents the CDC sends to COLSON**

*Documents the CDC sends directly to COLSON*

3. IRS Form W-9

- **The borrower's legal advisor or accountant should advise the borrower on how to complete this form – NOT the CDC**
- **Must be complete**
- **Must be accurate**
- **Only one IRS Form W-9 per loan**
- **The CDC's name and address should be listed in the Box for Requester's Name and Address**
- **The 504 Loan number should be listed in the Box for List account number(s) here**

4. Original of Servicing Agent Agreement (SBA Form 1506)

5. Copy of Note (SBA Form 1505)

6. Original Debenture (SBA Form 1504)

- **The CDC must forward the documents needed for funding to COLSON via overnight delivery. This funding package must be received ten (10) business days prior to pricing. Send to:**

**COLSON Services Corp.  
504 Loan Department  
101 Barclay Street, 8th Floor East  
New York, NY 10286  
800-225-4285**

- Process for sending documents to COLSON:

*STEP 1: An e-mail from SBA District Counsel* authorizing inclusion of the 504 Loan in the sale.

*STEP 2: The CDC and/or its CDC closing attorney sends the following hard copy documents (not electronic submissions or PDFs) to COLSON with the transmittal letter:*

1. Copy of the **504 Note**. The original is retained by the CDC and, after debenture funding, is sent by the CDC to the CLSC to be kept in SBA's collateral file.
2. Original **Servicing Agent Agreement**.
3. Original **Development Company 504 Debenture**.
4. The original **IRS Form W-9**;
5. The original **ACH Debit Authorization Form**; and
6. The **Third Party Lender Participation Fee** unless deducted from the CDC's processing fee.

## **Role of the SBA District Counsel**

### **Review documentation for legal sufficiency**

The Office of General Counsel (OGC) instituted streamlined procedures for closing 504 Loans effective August 1, 2007.

- For Priority CDCs using Designated Attorneys, SBA District Counsel reviews an Expedited Closing Package consisting of the first 12 items on the 504 Debenture Closing Checklist (SBA Form 2286)
- For non-Priority CDCs or Priority CDCs not using a Designated Attorney, SBA District Counsel reviews a Regular Closing Package consisting of up to the 25 items on the 504 Debenture Closing Checklist (SBA Form 2286)
- District Counsel writes an opinion that the 504 Loan has been closed in accordance with the 504 Loan Program Requirements
- District Counsel sends an e-mail to COLSON with a copy to the CDC approving the Closing Package and authorizing the funding of the 504 Loan for the upcoming debenture sale

### **Procedures for submission of Closing Packages to SBA District Counsel and submission of documents to COLSON.**

- *Submission of Closing Package.* The CDC completes the 504 Debenture Closing Checklist (SBA Form 2286) and submits a Closing Package of documents in the order listed on the Checklist to SBA District Counsel.
- *Submission of documents to COLSON.* The CDC holds all original documents until SBA District Counsel notifies COLSON and the CDC that the Closing Package is approved and the 504 Loan is authorized for debenture funding. The CDC then sends the following documents to COLSON:
  - the ACH Debit Form with the original voided check
  - the IRS W-9 Form
  - the Third Party Lender participation fee (unless deducted from the CDC's processing fee)
  - the original Debenture
  - the original Servicing Agent Agreement
  - a copy of the Note
  - a copy of the e-mail from SBA District Counsel approving the Closing Package

## **Closing documents the CDC sends to CLSC**

### *Documents the CDC sends directly to CLSC*

- *Collateral and closing document transfer.* Within 30 days after Debenture funding, the CDC transfers all original documents listed on the 504 Debenture Closing Checklist (SBA Form 2286) to the applicable SBA Commercial Loan Servicing Center (“CLSC”), using the 504 Debenture Closing Checklist as the collateral listing. If any original documents are not yet in the CDC’s possession (*e.g.*, a mortgage or deed of trust has not been returned yet from the recording office), then once all remaining documents have been received, the CDC sends one follow-up package to the CLSC with the trailing documents.
- *CDC completes the Note, Servicing Agent Agreement and Debenture.* The CDC needs to complete three of the closing documents as follows:
  - *Note.* The CDC downloads the completed, conformed page 1 of the Note (SBA Form 1505) from the COLSON website and inserts it into the Note. The CDC also downloads the Note amortization schedule from the COLSON website and attaches it to the original Note. The CDC then sends copies of the completed Note and amortization schedule to the Borrower.
  - *Servicing Agent Agreement.* The CDC downloads the completed, conformed pages 3 and 4 of the Servicing Agent Agreement (SBA Form 1506) from the COLSON website and inserts those in the copy of the Servicing Agent Agreement. The CDC sends a copy of the completed Servicing Agent Agreement to the Borrower.
  - *Debenture.* The Trustee sends the CDC the conformed page 1 of the Debenture (SBA Form 1504) which the CDC inserts into the copy of the Debenture, and the Debenture amortization and prepayment schedule(s).

## **Deadlines for sending documents for funding**

**Table 2-1: Deadlines for Sending Documents for Funding**

Sandy recommends that we separate this into 2 sections, starting with “Copy of the 504 Note” should be listed under CDC.

<b><u>WHO</u></b>	<b><u>WHAT DOCUMENTS</u></b>	<b><u>WHEN TO SEND</u></b>
<b>Certified Development Company</b>	<ul style="list-style-type: none"> <li>- Original ACH Debit Authorization Form with voided check</li> <li>- Original Third Party Lender participation fee (if applicable)</li> <li>- Original IRS Form W-9</li> <li>- Copy of the 504 Note</li> <li>- Original Servicing Agent Agreement</li> <li>- Original Debenture</li> <li>- Transmittal letter to COLSON</li> </ul>	Submit to COLSON after SBA District approved the Closing Package and no later than 22 days before debenture funding
	<ul style="list-style-type: none"> <li>- Closing Package</li> </ul>	Submit to SBA District Counsel before the published cutoff date or no later than 29 days before debenture funding
<b>SBA District Counsel</b>	<ul style="list-style-type: none"> <li>- SBA District Counsel e-mails approval of Closing Package</li> </ul>	After review for legal sufficiency