SBA Policy Notice

TO: All SBA Employees and Surety Bond partners

CONTROL NO.: 5000-866697

SUBJECT: Policy updates to comply with Executive Order 14159 regarding citizenship requirements for bonding assistance

EFFECTIVE: April 23, 2025

The purpose of this Notice is to revise Standard Operating Procedure (SOP) 50 45 4 for the SBA Surety Bond Guarantee Program to comply with section 20 of Executive Order 14159, "Protecting the American People Against Invasion," 90 FR 8443 (the "Executive Order") issued under the authority of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101 *et seq*.) and section 301 of Title 3, United States Code. The Executive Order directs SBA to identify and stop the provision of any public benefits to any illegal alien not authorized to receive them under the provisions of the INA or other relevant statutory provisions. This Notice formalizes the eligibility requirements for surety bond guarantee applicants.

This Notice supersedes any conflicting guidance in SOP 50 45 4 or other SBA guidance.

SURETY BOND GUARANTEES

Businesses are not eligible to receive SBA bonding assistance if they are owned in whole or in part by undocumented (illegal) aliens. In order to comply with the Executive Order, SBA is amending its procedures to require that at the time of application, the Surety/Agent must document 100 percent of the business owners, to confirm that the business is eligible.

Beginning on the effective date of this Policy Notice, Sureties/Agents may only make SBA guaranteed bonds to businesses owned by U.S. Citizens, U.S. Nationals, and Lawful Permanent Residents (LPRs). Applicant owners must certify that no business owner is an ineligible person. Ineligible persons include, but are not limited to, foreign nationals, those granted asylum, refugees, visa holders, nonimmigrant aliens under 8 U.S.C. § 1101(a)(15), those under Deferred Action for Childhood Arrivals (DACA), and undocumented aliens who are in the U.S. illegally.

Sureties/Agents must obtain a Lawful Permanent Resident's alien registration number for each non-citizen business owner and retain it in their files.

SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete

Must be accompanied by SBA Form 58

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SOP 50 45 4 Chapter 5, section 5(c) "Businesses Owned by Non-Citizens" is amended as follows:

c. Businesses Owned by Non-Citizens

Businesses eligible to receive a surety bond guarantee are limited to businesses owned 100 percent by citizens of the U.S., U.S. Nationals, or individuals who are Lawful Permanent Residents (LPRs)(commonly referred to as "green card holders"). Ineligible persons include, but are not limited to, foreign nationals, those granted asylum, refugees, visa holders, nonimmigrant aliens under 8 U.S.C. § 1101(a)(15), those under Deferred Action for Childhood Arrivals (DACA), and undocumented aliens who are in the U.S. illegally.

1. Citizens born in an American territory: Generally, those born in an American territory are U.S. citizens. This includes but is not limited to the fifty U.S. states, the District of Columbia, Guam, Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, but does not include outlying possessions of the United States.

2. People born in American Samoa and Swains Island are considered U.S. Nationals at birth but are not automatically U.S. citizens. 8 U.S.C. § 1408 and 8 U.S.C. § 1101(a)(29). When making a loan to a business owned by a non-citizen U.S. National, the Surety/Agent must collect and retain evidence of the person's status as a U.S. National (e.g., birth certificate or passport) and must enter the U.S. National's Social Security Number on the application and into eApps.

3. Businesses owned by Naturalized Citizens are eligible, and the naturalized citizens are not subject to any special restrictions or requirements. No further status verification is required if an individual is reflected as a U.S. Citizen on the SBA application.

4. Businesses owned by Lawful Permanent Residents (LPRs) are eligible. LPRs may live and work in the U.S. for life unless their status is revoked through an administrative hearing.

a. The USCIS Form I-551 (551), Lawful Permanent Resident Card, commonly called the "green card," is evidence of LPR status. USCIS has two versions of the 551:

i. Resident Alien Card (issued through 1997); and

ii. Permanent Resident Card. (This is the most recent version and has been issued since 1997.)

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iii. Because it can take up to a year for a newly arrived immigrant to receive a 551, new immigrants are issued an immigrant visa with a Customs and Border Protection (CBP) stamp evidencing their lawful permanent residence for a full year from the date the new immigrant entered the U.S. This visa with CBP stamp serves as evidence of LPR status, so long as the visa is not expired.

b. Since 1997, USCIS has issued the 551 with a 10-year validity, at which time it expires and must be renewed. A 551 issued between 1979 and August 1989, however, does not have an expiration date.

Replacing the 551 may be necessary if the 551 is lost, the individual changes his/her name, etc. Replacement of the 551 may take more than a year. The expiration of the immigrant's 551 does not affect the LPR status of the immigrant. Acceptable forms of evidence when the 551 has been submitted to USCIS for replacement or renewal upon expiration include the following:

i. Temporary I-551 stamps. A temporary stamp, issued by USCIS to replace lost or expiring 551s, either on the immigrant's unexpired foreign passport (that reads "Upon endorsement, serves as temporary I-551 evidencing permanent residency for 1 year"), or in cases where there is no passport or it is expired, on Form I-94 with passport photo;

ii. USCIS Form I-327, "Re-entry Permit," issued to LPRs in lieu of a visa, which is valid for only 2 years (the I-327 is issued for LPRs who need to be overseas for longer than 1 year); or

iii. USCIS Form I-797, Notice of Action. Aliens with Conditional LPR status (those who married a U.S. citizen and were married for less than 2 years at the time of being granted LPR status) must file Form I-751 to remove conditional status within 90 days of their 551 expiration. LPRs awaiting approval of their I-751 should be issued Form I-797, which along with the expired 551, is proof of current LPR status. Please note that there are numerous types of Form I-797 (e.g., I-797A, I-797-B, I-797C, etc.). For purposes of removing conditional status, only I-797 is acceptable.

c. SBA requires that SBA Form 994 be current at the time an application is submitted to SBA or it will be returned and not processed. Sureties processing under the Preferred Surety Bond (PSB) program must have a copy of the current 994 or acceptable substitute prior to submitting a bond application.

SBA Form 994 must include Part V individual certifications from 100 percent the individuals who own the concern directly or indirectly through another entity. For an indirect ownership example, if Jane Doe owns 100 percent of ABC, Inc., and

ABC, Inc. owns 50 percent of the Applicant, Jane Doe is the beneficial owner of 50 percent of the Applicant.

i. In the event of ownership by a trust, the trustee will certify SBA Form 994 on behalf of the beneficiaries of the trust. To collect 100% ownership in a scenario of trust ownership, the trust's TIN and name should be entered on SBA Form 994. Part V is completed on behalf of the beneficiaries. The information will be electronically collected on the Principal Information screen in SBA's online application system.

d. Verification of the status of an LPR is required if six months has elapsed since the last verification.

Questions:

Questions concerning this Notice may be directed to Kevin Valdes, Management Analyst, kevin.valdes@sba.gov.

Kelly Loeffler
Administrator
Small Business Administration

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