

Congress of the United States

Washington, DC 20515

February 24, 2026

Honorable Kelly Loeffler
Administrator
U.S. Small Business Administration
409 3rd St., S.W.
Washington, D.C. 20416

Dear Administrator Loeffler:

Recent changes made by the U.S. Small Business Administration (“SBA” or “the Agency”) threaten to undermine local economies and job creation by impeding American small businesses. We write with deep concern regarding SBA’s issuance of Policy Notice 5000-876441 and Procedural Notice 5000-876626 and urge the SBA to return to commonsense standards in place for a quarter century prior to the Trump Administration.¹

Policy Notice 5000-876441 was released on February 2, 2026, and overturns previous SBA policy guidance that was only published a few weeks ago.² Policy Notice 5000-876441³ specifically requires that one hundred percent of all direct and/or indirect owners of a small business applicant be U.S. citizens or U.S. nationals who have their principal residence in the United States, its territories, or possessions to be eligible for participation in SBA’s 7(a) program or 504/Certified Development Companies (“CDC”) program. Procedural Notice 5000-876626 issued on February 11, 2026, further details the requirements of the Policy Notice in Standard Operating Procedure 50 10 8.

As you know, the SBA’s flagship 7(a) program encourages authorized private-sector lenders to provide loans by guaranteeing a significant portion. Loans are provided to small businesses that might not otherwise obtain financing on reasonable terms and conditions. Similarly, the SBA’s 504/CDC program is administered through nonprofit CDCs and provides long-term financing for major fixed assets, such as land, buildings, and equipment. Both the 7(a) and the 504/CDC program carry a maximum loan amount of \$5 million in most circumstances and have been instrumental in helping American small businesses access credit for decades.

By issuing this new policy, not only is the SBA stoking the flames of hate, but it is also barring all U.S. small businesses with any amount of ownership by non-citizens lawfully in the U.S. from participating in the SBA’s two primary lending programs.

At a time when President Donald Trump’s tariff and trade policies are putting immense pressure on America’s small businesses, the SBA should be focused on reducing barriers and helping more small businesses access these two important programs. Instead, the SBA is spreading fear and confusion among lenders, CDC partners, and small business owners. This is now the fourth time since March 2025, that SBA has changed their guidance

¹ OFF. OF CAP. ACCESS. [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements and Recession of Procedural Notice 5000-872050](#), U.S. SMALL BUS. ADMIN. (FEB. 2, 2026).

OFF. OF CAP. ACCESS. [SBA Procedural Notice: Revised Applicant Ownership, Citizenship, and Residency Requirements for 7\(a\) and 504 Loans](#), U.S. SMALL BUS. ADMIN. (FEB. 11, 2026).

² OFF. OF CAP. ACCESS. [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements](#), U.S. SMALL BUS. ADMIN. (DEC. 19, 2025).

³ Hereinafter referred to as “the Policy Notice” or “the new policy”.

on this draconian policy.⁴ Rather than strengthening American small businesses, this policy limits access to capital, stifles entrepreneurship, and slows economic growth at a moment when our economy can least afford it. As such, we condemn the SBA's new policy and believe it will be devastating for America's small businesses, our economy, and directly breaks President Trump's campaign promise to "put America first".

We have never received any evidence, credible or otherwise, from the SBA or any other entity, that large numbers of individuals in the U.S. without legal authorization are receiving access to SBA financing and loan products. The SBA is doing nothing except making it harder for American-owned small businesses to access capital. This policy change is entirely self-defeating and limits the growth of our GDP over the long term.

SBA should focus on providing loans to businesses that are based in the U.S., creating jobs in local communities, and able to repay their loans. By issuing this new policy, the SBA is moving both the 7(a) and the 504/CDC program away from their original purposes and their use of prudent underwriting standards to evaluate loans. The main purpose of the 7(a) program is to provide creditworthy small businesses borrowers that demonstrate an ability to repay, and who cannot find credit elsewhere, with access to loans and loan guarantees. The legal status of a borrower has no bearing on their creditworthiness or their ability to repay and should not be used as a proxy for prudent underwriting determinations. Moreover, the credit elsewhere provision of the 7(a) program creates a situation where small businesses, either partially—or fully—owned by individuals already legally permitted to be in the U.S., with nowhere else to turn for their credit needs threatening the livelihoods of these small businesses and the communities they serve.

By the SBA issuing this new policy, it shows the hypocrisy of the entire Trump Administration. Under this new policy, banks, credit unions, and other SBA-lenders will need to create new compliance regimes to certify the citizenship or nationalization status of direct and/or indirect owners and comply with the 100 percent beneficial ownership requirement. Ironically, these compliance regimes are similar to the ones that the Trump Administration and the Congressional Republicans have argued for years are either too complex, too costly, or too invasive for lenders to comply with the CFPB's Section 1071 rule,⁵ in order to ensure institutions' compliance with fair lending requirements, and the Corporate Transparency Act's Beneficial Ownership requirement,⁶ to ensure anonymous shell companies in the US are not being used to facilitate terrorism, sex trafficking, money laundering, and other illicit schemes. However, unlike the SBA's Policy Notice, both the Section 1071 rule and the Beneficial Ownership rule had safe harbors, remedies for good faith mistakes, and, in some situations, opportunities for applicant borrowers to decline to provide their information altogether. Requiring lenders to verify citizenship status for all direct and indirect owners, and all employees creates significant liabilities for SBA lending partners and program participants.

The Policy Notice also raises constitutional concerns, creating challenges for program lenders and participants to carry out. The Fourteenth Amendment of U.S. Constitution provides that "[n]o State shall...deny any person within its jurisdiction the equal protection of the laws."^{7,8} The Equal Protection Clause requires the government

⁴ OFF. OF CAP. ACCESS. [SBA Policy Notice: Policy updates to comply with Executive Order 14159 regarding citizenship requirements for obtaining 7\(a\) and 504 loans](#). U.S. SMALL BUS. ADMIN. (March 7, 2025). OFF. OF CAP. ACCESS. [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements](#), U.S. SMALL BUS. ADMIN. (DEC. 19, 2025). OFF. OF CAP. ACCESS. [SBA Policy Notice: Update to SOP 50 10 8—Citizenship and Residency Requirements and Recession of Procedural Notice 5000-872050](#), U.S. SMALL BUS. ADMIN. (FEB. 2, 2026).

OFF. OF CAP. ACCESS. [SBA Procedural Notice: Revised Applicant Ownership, Citizenship, and Residency Requirements for 7\(a\) and 504 Loans](#), U.S. SMALL BUS. ADMIN. (FEB. 11, 2026).

⁵ 12 C.F.R Part 1002.

⁶ 15 U.S.C. §5336.

⁷ U.S. Const. amend. XIV, § 1.

⁸ The [Equal Protection Clause of the Fourteenth Amendment](#) applies to state governments. The Fifth Amendment's Due Process Clause imposes equal protection restrictions on the federal government. See: [Bolling v. Sharpe, 347 U.S. 497 \(1954\)](#).

to have a valid reason for passing any law or taking any official action that treats similarly situated people or groups of people differently.⁹ And for certain immutable classifications, including national origin, the government’s reason must be compelling, and the law or action must be narrowly tailored.¹⁰ Yet the SBA’s Procedural Notice, specifically details Chinese citizens, citizens of the Special Administrative Region of Hong Kong, and other national origin groups as ineligible persons, with no further explanation or substantiation.¹¹ These specific categorical exclusions serve to further escalate suspicions of dual loyalty against Chinese Americans or those perceived to be of Chinese descent. In a moment where four in ten Americans see Asian Americans as more loyal to their countries of origin than the U.S., policies like these only reinforce these perceptions of Asian Americans as the “perpetual foreigner.”¹²

Not only has the SBA failed to provide a compelling reason for prohibiting U.S. small businesses with an ownership percentage by a non-U.S. citizen or national from participating in the programs, the SBA has failed to present any evidence for why prohibiting these legitimate U.S. businesses from participation is necessary. The SBA has also repeatedly failed to answer questions from Congress on this issue.¹³ Moreover, the SBA has not even attempted to narrowly tailor its action, instead taking this action in the broadest way possible prohibiting participation by every U.S. small business in every location of the country with less than one hundred percent ownership by a U.S. citizen or national.

The SBA’s new policy is also likely to expose lenders and program participants to legal violations under existing federal law. The Equal Credit Opportunity Act¹⁴ (“ECOA”) prohibits creditors from discriminating against credit applicants on the basis of any protected class, including national origin.

While the Justice Department (“DoJ”) and the Consumer Financial Protection Bureau (“CFPB”) did recently issue a joint statement¹⁵ withdrawing interpretative guidance the agencies had previously issued pertaining to ECOA and Regulation B,¹⁶ seemingly permitting creditors to consider a borrower’s immigration or citizenship status, the withdrawal of the joint statement does not change ECOA, Regulation B, or creditors’ underlying fair lending obligations. Instead, it simply removes the agencies’ prior, non-binding policy articulation. As such, the fair lending obligations of SBA lenders and program participants remain in place.

While Regulation B does permit a creditor to consider an applicant’s immigration or permanent resident status, it does so in the context of the lender determining their rights and remedies regarding repayment. A blanket policy of refusing to consider applications from certain groups of noncitizens regardless of the credit qualifications of the individual borrower—like the SBA seems to have done here—is still a violation of ECOA

⁹ CONNECTICUT SUPREME COURT HISTORICAL SOCIETY. [The Right to Equal Protection under the United States Constitution and the Connecticut Constitution](#).

¹⁰ *Id.*

¹¹ OFF. OF CAP. ACCESS. [SBA Procedural Notice: Revised Applicant Ownership, Citizenship, and Residency Requirements for 7\(a\) and 504 Loans](#). U.S. SMALL BUS. ADMIN. (FEB. 11, 2026).

¹² SOCIAL TRACKING OF ASIAN AMERICANS IN THE U.S. (STAATUS) INDEX. <https://www.taaf.org/news/staatus-2025> THE ASIAN AMERICAN FOUNDATION. (FEB. 17, 2026)

¹³ U.S. Senate Committee on Small Business and Entrepreneurship. [Ranking Member Markey Leads Senate Democrats Requesting Answers from SBA on Draconian Immigration Policies](#). (Dec. 18, 2025).

U.S. Senate Committee on Small Business and Entrepreneurship. [Ranking Members Markey, Velázquez Decry Extreme SBA Policy Changes That Would Limit Economic Opportunity for American Entrepreneurs, Including Immigrants](#). (July 15, 2025).

¹⁴ 15 U.S.C. §1691.

¹⁵ OFF. OF PUB. AFFAIRS. [Department of Justice and Consumer Financial Protection Bureau Withdraw Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers](#). U.S. DEPT. OF JUSTICE, U.S. CONSUMER FINANCIAL PROTECTION BUREAU. (JAN. 12, 2026).

¹⁶ 12 C.F.R Part 1002.

and Regulation B. In its Policy Notice, the SBA doesn't say it is implementing this new policy in order to ensure repayment for lenders or that lenders "may" consider a borrower's immigration status as a factor for determining their rights and remedies regarding repayment. In fact, the SBA does not even mention "repayment" anywhere in its Policy Notice. Instead, it makes a small business applicant's immigration status and nationalization a threshold requirement to qualify for a 7(a) or 504/CDC program loan. We are deeply concerned that the SBA's unclear and shifting guidance will drive lenders and program participants to halt new originations under both programs to avoid liability, cutting off access to capital and destabilizing communities and local economies across the country.

It's important for the SBA to recognize and acknowledge the practical challenges the SBA's changes to its citizenship and nationalization requirement have created for lenders and program partners since President Trump issued Executive Order 14159.¹⁷ For the SBA to ensure the citizenship status of each borrower individual with direct and/or indirect beneficial ownership, in the 7(a) program, the lender will be required to upload the citizenship information the borrower has certified to the lender in the SBA's electronic loan submission platform, E-Tran. SBA 7(a) lenders have already told us that the requirement to enter 100 percent of direct and indirect ownership has created issues completely unrelated to citizenship and has made deals with complex ownership structures or multiple minority owners very difficult to process. We remain concerned that the SBA's new policy will be very difficult for 7(a) lenders to implement and could cause lenders to avoid businesses with complex ownership structures, thereby decreasing 7(a) lending overall, in order to avoid legal exposure.

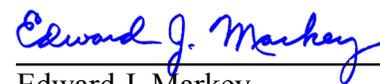
We fear the 504/CDC program will suffer a similar fate. Most 504 program loans are non-delegated loans and require additional processing and review by the SBA. Requiring the SBA to one hundred percent certify the business borrower's ownership by U.S. citizens or nationals is expected to result in additional processing times, delays, and costs, not only for the SBA, but for lenders and small business borrowers as well.

Small businesses are the backbone of our nation's economy. Access to capital has been a major challenge for American small businesses for decades and the SBA's capital access programs have tried to bridge the gap for the small businesses left behind by the conventional markets. Yet, the SBA's new citizenship policy creates operational challenges for lenders and program participants. Instead of denying more American small businesses access to necessary affordable capital, we should be working together to strengthen the SBA's capital access programs and increase financing opportunities for more small businesses in order to improve our local communities and national economy.

Sincerely,



Nydia M. Velázquez
Member of Congress
Ranking Member, Committee on
Small Business



Edward J. Markey
Ranking Member, Committee on
Small Business and
Entrepreneurship

¹⁷ EXEC. Order. 14159, 90 Fed. Reg. 8443.



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